

A NONSUBSTANTIVE REVISION
OF STATUTES RELATING TO
THE LICENSURE OF INSURERS AND RELATED ENTITIES,
LIFE INSURANCE, AND CERTAIN GROUP BENEFIT PROGRAMS
FOR GOVERNMENTAL EMPLOYEES

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omits that part of Section 14 that contains the reference to omitted Section 13. The omitted law reads:

Sec. 14. . . . shall be subject to judicial review as provided in Section 13 of this Act.

Revisor's Note
(End of Chapter)

Subsection G, Section 7, and Section 13, V.T.I.C. Article 3.53, provide authority for the judicial review of an order or final determination of the commissioner. The revised law omits those provisions because they are redundant of the authority provided under Subchapter D, Chapter 36, Insurance Code, which was formerly V.T.I.C. Article 1.04. The omitted law reads:

[Sec. 7]

G. Any order or final determination of the Commissioner under the provisions of this Section shall be subject to the appeal and review provisions of Article 1.04, Insurance Code of Texas.

Sec. 13. Any party to any proceeding affected by an order of the Commissioner or the State Board of Insurance shall be entitled to judicial review by following the procedure set forth in Article 1.04, Insurance Code of Texas.

TITLE 8. HEALTH INSURANCE AND OTHER HEALTH COVERAGES

[Subtitles A-G reserved]

SUBTITLE H. HEALTH BENEFITS AND OTHER COVERAGES FOR
GOVERNMENTAL EMPLOYEES

CHAPTER 1551. TEXAS EMPLOYEES GROUP BENEFITS ACT

CHAPTER 1552. GROUP LONG-TERM CARE INSURANCE FOR STATE
EMPLOYEES

[Chapters 1553-1574 reserved for expansion]

CHAPTER 1575. TEXAS PUBLIC SCHOOL EMPLOYEES GROUP
BENEFITS PROGRAM

CHAPTER 1576. GROUP LONG-TERM CARE INSURANCE FOR PUBLIC
SCHOOL EMPLOYEES

CHAPTER 1577. REQUIRED AVAILABILITY OF INSURANCE FOR
SCHOOL DISTRICT EMPLOYEES AND RETIREES

CHAPTER 1578. PURCHASE OF INSURANCE BY ASSOCIATION OF
TEACHERS AND SCHOOL ADMINISTRATORS

[Chapters 1579-1600 reserved for expansion]

CHAPTER 1601. UNIFORM INSURANCE BENEFITS ACT FOR EMPLOYEES
OF THE UNIVERSITY OF TEXAS SYSTEM
AND THE TEXAS A&M UNIVERSITY SYSTEM

[Chapters 1602-1624 reserved for expansion]

CHAPTER 1625. TRANSFER BETWEEN CERTAIN GOVERNMENTAL
PROGRAMS

TITLE 8. HEALTH INSURANCE AND OTHER HEALTH COVERAGES
[Subtitles A-G reserved]

SUBTITLE H. HEALTH BENEFITS AND OTHER COVERAGES FOR
GOVERNMENTAL EMPLOYEES

CHAPTER 1551. TEXAS EMPLOYEES GROUP BENEFITS ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1551.001. SHORT TITLE 1692

Sec. 1551.002. PURPOSES 1692

Sec. 1551.003. GENERAL DEFINITIONS 1693

Sec. 1551.004. DEFINITION OF DEPENDENT 1697

Sec. 1551.005. DEFINITION OF HEALTH BENEFIT PLAN 1698

Sec. 1551.006. DEFINITION OF INSTITUTION OF HIGHER
EDUCATION 1700

Sec. 1551.007. DEFINITION OF CARRIER 1701

Sec. 1551.008. APPLICABILITY OF DEFINITIONS 1702

Sec. 1551.009. BOARD OF TRUSTEES MAY DEFINE OTHER WORDS 1703

Sec. 1551.010. BOARD OF TRUSTEES APPROVAL FOR PAYROLL
DEDUCTIONS OR REDUCTIONS 1703

Sec. 1551.011. EXEMPTION FROM EXECUTION 1703

Sec. 1551.012. EXEMPTION FROM STATE TAXES AND FEES 1704

Sec. 1551.013. COMBINING OF CARRIER NOT RESTRAINT
OF TRADE 1704

[Sections 1551.014-1551.050 reserved for expansion]

SUBCHAPTER B. ADMINISTRATION AND IMPLEMENTATION

Sec. 1551.051. ADMINISTRATION AND IMPLEMENTATION 1705

Sec. 1551.052. AUTHORITY FOR RULES, PLANS, PROCEDURES,
AND ORDERS 1706

Sec. 1551.053. AUTHORITY TO HIRE EMPLOYEES 1706

Sec. 1551.054. LIABILITY INSURANCE 1707

Sec. 1551.055. GENERAL POWERS OF BOARD OF TRUSTEES
REGARDING COVERAGE PLANS 1708

Sec. 1551.056. INDEPENDENT ADMINISTRATOR 1710

Sec. 1551.057. COMPENSATION OF PERSON EMPLOYED
BY BOARD OF TRUSTEES 1711

Sec. 1551.058. ELECTRONIC AUTHORIZATIONS 1711

Sec. 1551.059. CERTIFICATE OF COVERAGE 1712

Sec. 1551.060. IDENTIFICATION CARDS 1712

Sec. 1551.061. ANNUAL REPORT 1713

Sec. 1551.062. INFORMATION ON OPERATION AND ADMINISTRATION
OF CHAPTER 1713

Sec. 1551.063. CONFIDENTIALITY OF CERTAIN RECORDS 1714

Sec. 1551.064. CERTAIN GROUP HEALTH AND ACCIDENT
POLICIES OR CONTRACTS 1715

[Sections 1551.065-1551.100 reserved for expansion]

SUBCHAPTER C. COVERAGE AND PARTICIPATION

Sec. 1551.101. PARTICIPATION ELIGIBILITY: STATE OFFICERS
AND EMPLOYEES 1718

Sec. 1551.102. PARTICIPATION ELIGIBILITY: ANNUITANTS 1721

Sec. 1551.103. RIGHT TO COVERAGE 1725

Sec. 1551.104. AUTOMATIC COVERAGE 1725

Sec. 1551.105. DATE AUTOMATIC COVERAGE BEGINS 1725

Sec. 1551.106. GROUP COVERAGE PLAN PURCHASED TO PROVIDE
FOR AUTOMATIC COVERAGE 1726

Sec. 1551.107. CONTINGENT COVERAGE 1726

Sec. 1551.108. CONTINUING ELIGIBILITY OF CERTAIN PERSONS
WITH LEGISLATIVE SERVICE OR EMPLOYMENT 1727

Sec. 1551.109. CONTINUING ELIGIBILITY OF CERTAIN MEMBERS
OF BOARDS, COMMISSIONS, AND INSTITUTIONS
OF HIGHER EDUCATION 1728

Sec. 1551.110. INELIGIBILITY OF CERTAIN JUNIOR COLLEGE
EMPLOYEES 1729

Sec. 1551.111. PARTICIPATION BY CERTAIN RETIREMENT
SYSTEMS 1730

Sec. 1551.112. PARTICIPATION BY TEXAS TURNPIKE
AUTHORITY 1731

Sec. 1551.113. PARTICIPATION BY CERTAIN EMPLOYEES WHOSE
POSITIONS ARE PRIVATIZED OR ELIMINATED 1732

[Sections 1551.114-1551.150 reserved for expansion]

SUBCHAPTER D. COVERAGE FOR DEPENDENTS

Sec. 1551.151. ENTITLEMENT TO COVERAGE 1733

Sec. 1551.152. ELIGIBILITY OF FOSTER CHILD 1733

Sec. 1551.153. PARTICIPANT RESIDING OUTSIDE OF
SERVICE AREA 1734

Sec. 1551.154. EMPLOYEE PAYMENTS 1734

Sec. 1551.155. COVERAGE OPTIONS FOR SURVIVING SPOUSE 1735

Sec. 1551.156.	COVERAGE OPTIONS FOR DEPENDENT WHEN THERE IS NO SURVIVING SPOUSE	1735
Sec. 1551.157.	COVERAGE OPTIONS AFTER EXPIRATION OF ANNUITY OPTION	1736
Sec. 1551.158.	REINSTATEMENT OF HEALTH BENEFIT PLAN COVERAGE BY CERTAIN DEPENDENTS	1737
Sec. 1551.159.	COVERAGE FOR CERTAIN DEPENDENT CHILDREN OF EMPLOYEES	1737
[Sections 1551.160-1551.200 reserved for expansion]		
SUBCHAPTER E. GROUP COVERAGES		
Sec. 1551.201.	ESTABLISHMENT	1740
Sec. 1551.202.	AUTHORITY TO DEFINE BASIC COVERAGES	1742
Sec. 1551.203.	AUTHORITY TO DEFINE OPTIONAL COVERAGES	1742
Sec. 1551.204.	AUTHORITY TO DEFINE VOLUNTARY COVERAGES	1743
Sec. 1551.205.	LIMITATIONS	1743
Sec. 1551.206.	CAFETERIA PLAN	1744
Sec. 1551.207.	PREMIUM CONVERSION BENEFIT PORTION OF CAFETERIA PLAN	1745
Sec. 1551.208.	DETERMINATION TO SELF-FUND	1746
Sec. 1551.209.	SELF-FUNDED COVERAGE EXEMPT FROM INSURANCE LAW	1746
Sec. 1551.210.	ACTUARIAL ADVICE FOR SELF-FUNDED COVERAGE	1746
Sec. 1551.211.	CONTINGENCY RESERVE FUND FOR SELF-FUNDED COVERAGE	1747
Sec. 1551.212.	FIRMS TO ADMINISTER SELF-FUNDED COVERAGE	1748
Sec. 1551.213.	BIDS FOR PURCHASED COVERAGE	1749
Sec. 1551.214.	SELECTION OF BIDS FOR PURCHASED COVERAGE	1749
Sec. 1551.215.	ACCOUNTING BY CARRIER PROVIDING PURCHASED COVERAGE	1750
Sec. 1551.216.	SPECIAL CONTINGENCY RESERVE	1751
Sec. 1551.217.	USE OF EMPLOYEE'S SALARY IN COMPUTATION OF PREMIUM OR COVERAGE	1752
[Sections 1551.218-1551.250 reserved for expansion]		
SUBCHAPTER F. GROUP LIFE AND ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE COVERAGE PLAN		
Sec. 1551.251.	GROUP LIFE INSURANCE COVERAGE PLAN	1753
Sec. 1551.252.	ADDITIONAL TERM LIFE INSURANCE	1754
Sec. 1551.253.	DETERMINATION OF ANNUAL SALARY	1754
Sec. 1551.254.	ACCELERATED LIFE INSURANCE BENEFITS	1755
Sec. 1551.255.	INCLUSION OF PROVISIONS FOR VIATICAL SETTLEMENTS	1756
Sec. 1551.256.	OPTIONAL TERM LIFE INSURANCE COVERAGE AFTER RETIREMENT	1756

Sec. 1551.257. ELIGIBILITY OF ANNUITANT FOR EXTENDED
INSURANCE BENEFITS 1757

Sec. 1551.258. TERMINATION OF ACCIDENTAL DEATH AND
DISMEMBERMENT INSURANCE COVERAGE ON
RETIREMENT 1758

Sec. 1551.259. ORDER OF PRECEDENCE OF PAYMENT TO
SURVIVORS 1758

[Sections 1551.260-1551.300 reserved for expansion]

SUBCHAPTER G. CONTRIBUTIONS AND COSTS

Sec. 1551.301. FUNDING OF BASIC COVERAGE 1761

Sec. 1551.302. ALLOCATION OF EMPLOYER CONTRIBUTIONS 1761

Sec. 1551.303. FUNDING OF OPTIONAL COVERAGES 1762

Sec. 1551.304. FUNDING OF VOLUNTARY COVERAGES 1762

Sec. 1551.305. COST OF BASIC COVERAGE EXCEEDING EMPLOYER
CONTRIBUTIONS 1762

Sec. 1551.306. PAYMENT OF EXCESS COST OVER BASIC
COVERAGE CONTRIBUTION 1763

Sec. 1551.307. PAYMENT FOR VOLUNTARY COVERAGES 1764

Sec. 1551.308. NO CONTRIBUTION ON REFUSAL OF COVERAGE 1764

Sec. 1551.309. EMPLOYEE PAYMENTS FOR PARTICIPATION IN
CAFETERIA PLAN 1764

Sec. 1551.310. STATE CONTRIBUTION REQUIRED 1766

Sec. 1551.311. AMOUNT OF STATE CONTRIBUTION 1766

Sec. 1551.312. AMOUNT OF STATE CONTRIBUTION FOR CERTAIN
DEPENDENT CHILDREN 1767

Sec. 1551.313. AMOUNT OF STATE CONTRIBUTION FOR CERTAIN
SURVIVING DEPENDENTS 1767

Sec. 1551.314. CERTAIN STATE CONTRIBUTIONS PROHIBITED 1767

Sec. 1551.315. REQUIRED CONTRIBUTIONS BY STATE AGENCIES 1768

Sec. 1551.316. ALLOCATION TO BOARD OF TRUSTEES OF EMPLOYER
CONTRIBUTIONS 1769

Sec. 1551.317. PAYMENT OF EMPLOYER CONTRIBUTIONS ALLOCATED
BY THE STATE 1769

Sec. 1551.318. PAYMENT OF EMPLOYER CONTRIBUTIONS NOT ALLOCATED
BY THE STATE 1770

Sec. 1551.319. AMOUNT OF CONTRIBUTION FOR FULL-TIME AND
PART-TIME EMPLOYEES 1770

Sec. 1551.320. CERTAIN COSTS 1771

[Sections 1551.321-1551.350 reserved for expansion]

SUBCHAPTER H. EXPULSION AND ADJUDICATION OF CLAIMS

Sec. 1551.351. EXPULSION 1772

Sec. 1551.352. EXECUTIVE DIRECTOR DETERMINES QUESTIONS
RELATING TO ENROLLMENT OR PAYMENT
OF CLAIMS 1773

Sec. 1551.353. RESCISSION OF COVERAGE OR DENIAL OF CLAIM
BY EXECUTIVE DIRECTOR 1774

Sec. 1551.354. DOUBLE OR MULTIPLE LIABILITY 1775

- Sec. 1551.355. APPEAL OF EXECUTIVE DIRECTOR'S
DETERMINATION 1775
- Sec. 1551.356. STANDING 1776
- Sec. 1551.357. DETERMINATION OF APPEAL BY BOARD
OF TRUSTEES 1776
- Sec. 1551.358. NEGOTIATION 1777
- Sec. 1551.359. STANDARD OF REVIEW OF DETERMINATION OF
BOARD OF TRUSTEES 1777
- Sec. 1551.360. DELEGATION 1777
- [Sections 1551.361-1551.400 reserved for expansion]
- SUBCHAPTER I. FUNDS
- Sec. 1551.401. EMPLOYEES LIFE, ACCIDENT, AND HEALTH
INSURANCE AND BENEFITS FUND 1778
- Sec. 1551.402. STATE EMPLOYEES CAFETERIA PLAN TRUST FUND 1779
- Sec. 1551.403. FEES FOR STATE EMPLOYEES CAFETERIA PLAN
TRUST FUND 1780
- Sec. 1551.404. INSUFFICIENT EARNINGS FOR EMPLOYEE TO
PARTICIPATE IN CAFETERIA FUND 1781
- Sec. 1551.405. EMPLOYEES' HEALTH CARE STABILIZATION
TRUST FUND 1782
- Sec. 1551.406. INVESTMENT OF FUNDS 1784
- Sec. 1551.407. MANAGEMENT OF ASSETS 1785
- [Sections 1551.408-1551.450 reserved for expansion]
- SUBCHAPTER J. GROUP BENEFITS ADVISORY COMMITTEE
- Sec. 1551.451. DEFINITION 1786
- Sec. 1551.452. NUMBER OF MEMBERS 1786
- Sec. 1551.453. MEMBERS REPRESENTING STATE AGENCIES 1786
- Sec. 1551.454. MEMBERS REPRESENTING INSTITUTIONS
OF HIGHER EDUCATION 1788
- Sec. 1551.455. MEMBERS REPRESENTING PRIVATE SECTOR 1788
- Sec. 1551.456. RETIRED STATE EMPLOYEE 1789
- Sec. 1551.457. EXECUTIVE DIRECTOR 1789
- Sec. 1551.458. TERM 1789
- Sec. 1551.459. VACANCY 1789
- Sec. 1551.460. PRESIDING OFFICER 1790
- Sec. 1551.461. DUTIES OF COMMITTEE 1790
- Sec. 1551.462. DUTIES OF COMMITTEE MEMBERS 1790

CHAPTER 1551. TEXAS EMPLOYEES GROUP
BENEFITS ACT

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 1551.001. SHORT TITLE. This chapter may be cited as the Texas Employees Group Benefits Act. (V.T.I.C. Art. 3.50-2, Sec. 1.)

Source Law

Art. 3.50-2

Sec. 1. This Act shall be known and may

be cited as the "Texas Employees Uniform
Group Insurance Benefits Act."

Revised Law

Sec. 1551.002. PURPOSES. The purposes of this chapter are to:

(1) provide uniformity in life, accident, and health benefit coverages for all state officers and employees and their dependents;

(2) enable the state to attract and retain competent and able employees by providing employees and their dependents with life, accident, and health benefit coverages at least equal to those commonly provided in private industry;

(3) foster, promote, and encourage employment by and service to the state as a career profession for individuals of high standards of competence and ability;

(4) recognize and protect the state's investment in each permanent employee by promoting and preserving economic security and good health among employees and their dependents;

(5) foster and develop high standards of employer-employee relationships between the state and its employees; and

(6) recognize the long and faithful service and dedication of state officers and employees and encourage them to remain in state service until eligible for retirement by providing health benefits for them and their dependents.

(V.T.I.C. Art. 3.50-2, Sec. 2.)

Source Law

Sec. 2. It is hereby declared that the purposes of this Act are:

(a) to provide uniformity in life, accident, and health benefits coverages on all employees of the State of Texas and their dependents;

(b) to enable the State of Texas to attract and retain competent and able employees by providing them and their dependents with life, accident, and health benefits coverages at least equal to those commonly provided in private industry;

(c) to foster, promote, and encourage employment by and service to the State of Texas as a career profession for persons of high standards of competence and ability;

(d) to recognize and protect the state's investment in each permanent employee

by promoting and preserving economic security and good health among state employees and their dependents;

(e) to foster and develop high standards of employer-employee relationships between the State of Texas and its employees;

(f) to recognize the service to the state by elected state officials by extending to them and their dependents the same life, accident, and health benefits coverages as are provided herein for state employees and their dependents; and

(g) to recognize the long and faithful service and dedication of employees of the State of Texas and to encourage them to remain in state service until eligible for retirement by providing health benefits for such employees and their dependents.

Revised Law

Sec. 1551.003. GENERAL DEFINITIONS. In this chapter:

(1) "Administering firm" means a firm designated by the board of trustees to administer coverages, services, benefits, or requirements in accordance with this chapter and the rules adopted by the board of trustees under this chapter.

(2) "Annuitant" means an individual eligible to participate in the group benefits program under Section 1551.102.

(3) "Basic coverage" means the group coverage plans determined by the board of trustees in which each full-time employee and annuitant participates automatically unless participation is specifically waived.

(4) "Board of trustees" means the board of trustees established under Chapter 815, Government Code, to administer the Employees Retirement System of Texas.

(5) "Cafeteria plan" means a plan defined and authorized by Section 125, Internal Revenue Code of 1986.

(6) "Employee" means an individual eligible to participate in the group benefits program under Section 1551.101.

(7) "Employer" means this state and its agencies.

(8) "Executive director" means the executive director of the Employees Retirement System of Texas.

(9) "Full-time employee" means an employee designated by the employer as working 20 or more hours a week.

(10) "Group benefits program" means the state employees group benefits program provided by this chapter.

(11) "Part-time employee" means an employee designated by the employer as working less than 20 hours a week.

(12) "Serious mental illness" has the meaning assigned

by Section 1, Article 3.51-14.

(13) "Service" means personal service to the state creditable in accordance with rules adopted by the board of trustees.

(14) "State agency" means a commission, board, department, division, institution of higher education, or other agency of this state created by the constitution or statutes of this state. The term also includes the Texas Municipal Retirement System and the Texas County and District Retirement System. (V.T.I.C. Art. 3.50-2, Secs. 3(a)(1), (4), (6), (10), (11), (14) (part), (15) (part), (16), (17), (23); 3A(a) (part); New.)

Source Law

(1) "Administering firm" shall mean any firm designated by the trustee to administer any coverages, services, benefits, or requirements in accordance with this Act and the trustee's regulations promulgated pursuant thereto.

(4) "Department" shall mean commission, board, agency, division, institution of higher education, or department of the State of Texas created as such by the constitution or statutes of this state.

(6) "Employer" shall mean the State of Texas and all its departments.

(10) "Service" shall mean any personal service of an employee creditable in accordance with rules and regulations promulgated by the trustee.

(11) "Trustee" shall mean the Board of Trustees provided for in Chapter 815, Government Code, to administer the Employees Retirement System of Texas.

(14) "Part-time employee" shall mean, for purposes of this Act, an employee designated by his employing agency as working less than 20 hours per week. . . .

(15) "Full-time employee" shall mean, for purposes of this Act, an employee designated by his employing agency as working 20 or more hours per week. . . .

(16) "Basic coverage" shall mean the programs of group coverages determined by the trustee in which every full-time employee and every annuitant participates automatically unless participation is specifically waived.

(17) "Cafeteria plan" means a plan as defined and authorized by Section 125, Internal Revenue Code of 1986 (26 U.S.C. Sec. 125).

(23) "Serious mental illness" has the meaning assigned by Section 1, Article 3.51-14, Insurance Code.

Sec. 3A. (a) The Texas Municipal Retirement System and the Texas County and District Retirement System shall participate in the Texas Employees Uniform Group Insurance Program administered by the Employees Retirement System of Texas under this Act. . . .

Revisor's Note

(1) Section 3(a)(1), V.T.I.C. Article 3.50-2, refers to "regulations" adopted by the board of trustees. Section 3(a)(10), V.T.I.C. Article 3.50-2, refers to "rules and regulations" adopted by the board of trustees. Throughout this chapter, "rule" is used instead of "regulation" because that is the term more commonly used and is the term used by Chapter 2001, Government Code, the administrative procedure law. In addition, "regulations" is omitted from the revised law throughout this chapter when used in conjunction with "rules" because under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation. That definition applies to the revised law.

(2) Sections 3(a)(2) and (5), V.T.I.C. Article 3.50-2, together with some additional provisions, describe annuitants and employees eligible to participate in the group benefits program provided under Article 3.50-2, revised as this chapter. These provisions are revised as Sections 1551.101 and

1551.102, respectively. For the convenience of the reader, the revised law defines "annuitant" and "employee" by reference to these provisions.

(3) Section 3(a)(4), V.T.I.C. Article 3.50-2, defines "department." The revised law substitutes "state agency" for "department" as the defined term to avoid confusion with the use of "department" throughout this code to mean the Texas Department of Insurance and because "state agency" more accurately reflects the substance of the definition. The revised law includes in the definition of state agency the Texas Municipal Retirement System and the Texas County and District Retirement System because under Section 3A(a), V.T.I.C. Article 3.50-2, revised in this section and in Section 1551.111, those entities participate in the program operated under this chapter in the same manner as a state agency.

(4) Section 3(a)(11), V.T.I.C. Article 3.50-2, defines "trustee" for purposes of this chapter as meaning "the Board of Trustees provided for in Chapter 815, Government Code, to administer the Employees Retirement System of Texas." For clarity and convenience, the revised law substitutes "board of trustees" for "trustee" as the defined term. The substitution of "board of trustees" for "trustee" is also made throughout this chapter to reflect the change made in this section.

(5) Section 3(a)(16), V.T.I.C. Article 3.50-2, refers to the "programs of group coverages" provided as basic coverage. V.T.I.C. Article 3.50-2 includes references to "group coverages," "group coverage plans," and "group benefits coverages," as well as other, similar terms, and to a "group life insurance program." For consistency of terminology and to avoid confusion with the Texas employees group benefits program as a whole, the revised law uses "group coverage plans" and "group coverage" throughout this chapter to refer to specific benefits and coverages included in the group benefits program.

(6) The definitions of "executive director" and "group benefits program" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions. Throughout this chapter, appropriate changes in terminology have been made to reflect those defined terms.

Revised Law

Sec. 1551.004. DEFINITION OF DEPENDENT. (a) In this chapter, "dependent" with respect to an individual eligible to participate in the group benefits program under Section 1551.101 or 1551.102 means the individual's:

(1) spouse;

(2) unmarried child younger than 25 years of age;

(3) child of any age who lives with or has the child's care provided by the individual on a regular basis if the child is mentally retarded or physically incapacitated to the extent that the child is dependent on the individual for care or support, as determined by the board of trustees; and

(4) child of any age who is unmarried, for purposes of health benefit coverage under this chapter, on expiration of the child's continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. No. 99-272).

(b) In this section, "child" includes an adopted child and a stepchild, foster child, or other child who is in a parent-child relationship with an individual who is eligible to participate in the group benefits program under Section 1551.101 or 1551.102. (V.T.I.C. Art. 3.50-2, Sec. 3(a)(8).)

Source Law

(8) "Dependent" shall mean the spouse of an employee or retired employee and:

(A) an unmarried child under 25 years of age, including an adopted child and a stepchild, foster child, or other child who is in a regular parent-child relationship;

(B) any such child, regardless of age, who lives with or whose care is provided by an employee or annuitant on a regular basis if such child is mentally retarded or physically incapacitated to such an extent as to be dependent upon the employee or retired employee for care or support, as the trustee shall determine; and

(C) any such child who is

unmarried, regardless of age, for purposes of health benefits coverage under this Act, on expiration of the child's continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272).

Revisor's Note

Section 3(a)(8), V.T.I.C. Article 3.50-2, refers to an "employee," a "retired employee," and an "annuitant." Under Section 3(a)(5), V.T.I.C. Article 3.50-2, "employee" is defined to include specified annuitants. Section 3(a)(5) is revised as Sections 1551.101 and 1551.102, which delineate participation eligibility requirements for employees and annuitants. Throughout this chapter, where appropriate, the revised law substitutes "individual eligible to participate in the group benefits program under Section 1551.101 or 1551.102" for the quoted terms.

Revised Law

Sec. 1551.005. DEFINITION OF HEALTH BENEFIT PLAN. (a) In this chapter, "health benefit plan" means a plan that provides, pays for, or reimburses expenses for health care services, including comparable health care services for participants who rely solely on spiritual means through prayer for healing in accordance with the teaching of a well-recognized church or denomination.

(b) A health benefit plan shall be provided on a group basis through:

- (1) a policy or contract;
- (2) a medical, dental, or hospital service agreement;
- (3) a membership or subscription contract;
- (4) a salary continuation plan;
- (5) a health maintenance organization agreement;
- (6) a preferred provider arrangement; or
- (7) any other similar group arrangement or a combination of policies, plans, contracts, agreements, or arrangements described by this subsection. (V.T.I.C. Art. 3.50-2, Sec. 3(a)(7).)

Source Law

(7) "Health benefits plan" shall mean any group policy or contract, medical, dental, or hospital service agreement, membership or subscription contract, salary

continuation plan, health maintenance organization agreement, preferred provider arrangement, or any similar group arrangement or any combination of those policies, plans, contracts, agreements, or arrangements provided for the purpose of providing, paying for, or reimbursing expenses for health care services, including comparable health care services for employees who rely solely on spiritual means through prayer for healing in accordance with the teaching of a well recognized church or denomination.

Revisor's Note

Section 3(a)(7), V.T.I.C. Article 3.50-2, refers to health care services for certain "employees." The revised law substitutes "participants" for "employees" because it is clear from the context of the source law that the legislature intended to refer to all individuals participating in the group benefits program, including eligible dependents. Throughout this chapter, similar changes are made where appropriate.

Revised Law

Sec. 1551.006. DEFINITION OF INSTITUTION OF HIGHER EDUCATION. (a) In this chapter, except as provided by Subsection (b), "institution of higher education" means a public junior college, a senior college or university, or any other agency of higher education within the meaning and jurisdiction of Chapter 61, Education Code.

(b) In this chapter, "institution of higher education" does not include:

(1) an entity in The University of Texas System, as described by Section 65.02, Education Code; and

(2) an entity in The Texas A&M University System, as described by Subtitle D, Title 3, Education Code, including the Texas Veterinary Medical Diagnostic Laboratory. (V.T.I.C. Art. 3.50-2, Secs. 3(a)(18), (19), (20).)

Source Law

(18) "Institution of higher education" means any public community/junior college or senior college or university, or any other agency of higher education within the meaning and jurisdiction of Chapter 61, Education Code, except The University of Texas System and The Texas A&M University

System.

(19) "The University of Texas System" means the entities listed or described in Section 65.02, Education Code.

(20) "The Texas A&M University System" means the entities governed under Chapters 85 through 88, Education Code, and includes the Texas Veterinary Diagnostic Laboratory.

Revisor's Note

(1) Section 3(a)(18), V.T.I.C. Article 3.50-2, refers to a "public community/junior college." Throughout this chapter, the revised law substitutes "public junior college" for "public community/junior college" because "public junior college" is the standard statutory term for those colleges. See Section 61.003, Education Code, and Chapter 130, Education Code.

(2) Section 3(a)(20), V.T.I.C. Article 3.50-2, refers to "Chapters 85 through 88, Education Code." Those chapters make up Subtitle D, Title 3, Education Code, and the revised law refers to that subtitle.

Revised Law

Sec. 1551.007. DEFINITION OF CARRIER. In this chapter, "carrier" means:

(1) an insurance company that is authorized by the department under this code to provide any of the types of insurance coverages, benefits, or services provided for in this chapter and that:

(A) has a surplus of \$1 million;

(B) has a successful operating history; and

(C) has had successful experience, as determined by the department, in providing and servicing any of the types of group coverage provided for in this chapter;

(2) a corporation operating under Chapter 842 or 843 that provides any of the types of coverage, benefits, or services provided for in this chapter and that:

(A) has a successful operating history; and

(B) has had successful experience, as determined by the department, in providing and servicing any of the types of group coverage provided for in this chapter; or

(3) any combination of carriers described by Subdivisions (1) and (2) on terms the board of trustees prescribes. (V.T.I.C. Art. 3.50-2, Secs. 3(a)(3), (9) (part).)

Source Law

(3) "Carrier" shall mean a qualified carrier as defined in this Act.

(9) "Qualified carrier" shall mean:

(A) any insurance company authorized to do business in this state by the Texas Department of Insurance to provide any of the types of insurance coverages, benefits, or services provided for in this Act under any of the insurance laws of the State of Texas, which has a surplus of \$1 million, a successful operating history, and which has had successful experience in providing and servicing any of the types of group coverage provided for in this Act as determined by the Texas Department of Insurance;

(B) any corporation operating under Chapter 20 of the Insurance Code or under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code) which provides any of the types of coverage, benefits, or services provided for in this Act, a successful operating history, and which has had successful experience in providing and servicing any of the types of group coverage provided for in this Act as determined by the Texas Department of Insurance; or

(C) any combination or carriers as herein defined, upon such terms and conditions as may be prescribed by the trustee,

Revisor's Note

(1) Section 3(a), V.T.I.C. Article 3.50-2, defines "carrier" as a "qualified carrier." Section 3(a)(9) of that article defines "qualified carrier." The revised law defines only "carrier" and omits the reference to "qualified carrier." "Carrier" is the term used throughout this chapter.

(2) Section 3(a)(9)(A), V.T.I.C. Article 3.50-2, refers to "any insurance company authorized . . . to provide any of

the [coverages] . . . under any of the insurance laws of the State of Texas." The revised law substitutes "this code" for "insurance laws of the State of Texas" because all of the laws of this state relating to the authorization of insurance companies and related entities have been codified in this code.

(3) Section 3(a)(9)(C), V.T.I.C. Article 3.50-2, refers to the "terms and conditions" the trustee may prescribe. The reference to "conditions" is omitted from the revised law because "conditions" is included within the meaning of "terms."

Revised Law

Sec. 1551.008. APPLICABILITY OF DEFINITIONS. The definition of a term defined by this subchapter and the use of the terms "employee" and "annuitant" to refer to individuals eligible to participate in the group benefits program under Sections 1551.101 and 1551.102 apply to this chapter unless a different meaning is plainly required by the context in which the term appears. (V.T.I.C. Art. 3.50-2, Sec. 3(a) (part).)

Source Law

Sec. 3. (a) Unless a different meaning is plainly required by the context, the following words and phrases as used in this Act shall have the following meanings:

. . .

Revised Law

Sec. 1551.009. BOARD OF TRUSTEES MAY DEFINE OTHER WORDS. The board of trustees may define by rule a word in terms necessary in the administration of this chapter. (V.T.I.C. Art. 3.50-2, Sec. 3(b).)

Source Law

(b) In addition to the foregoing definitions, the trustee shall have authority to define by rule any words in terms necessary in the administration of this Act.

Revised Law

Sec. 1551.010. BOARD OF TRUSTEES APPROVAL FOR PAYROLL DEDUCTIONS OR REDUCTIONS. A state agency may not establish, continue, or authorize payroll deductions or reductions for any benefit or coverage as provided by this chapter without the express approval of the board of trustees. (V.T.I.C. Art. 3.50-2,

Sec. 5(d).)

Source Law

(d) No department shall establish, continue, or authorize payroll deductions or reductions for any benefits or coverage as provided in this Act without the express approval of the trustee.

Revised Law

Sec. 1551.011. EXEMPTION FROM EXECUTION. All benefit payments, contributions of employees and annuitants, and optional benefit payments, any rights, benefits, or payments accruing to a person under this chapter, and all money in a fund created by this chapter:

(1) are exempt from execution, attachment, garnishment, or any other process; and

(2) may not be assigned, except:

(A) for direct payment that a participant may assign to a provider of health care services; and

(B) as specifically provided by this chapter.

(V.T.I.C. Art. 3.50-2, Sec. 10(a).)

Source Law

Sec. 10. (a) Exemption from Execution. All benefit payments, employee contributions, optional benefits payments, and any and all rights, benefits, or payments accruing to any person under the provisions of this Act, as well as all money in any fund created by this Act, shall be and the same are hereby exempt from execution, attachment, garnishment, or any other process whatsoever and shall be unassigned except for direct payment which the employee may assign to providers of health care services and as specifically provided in this Act.

Revised Law

Sec. 1551.012. EXEMPTION FROM STATE TAXES AND FEES. Any coverage established under this chapter, including a policy, an insurance contract, a certificate of coverage, an evidence of coverage, and an agreement with a health maintenance organization or a plan administrator, is not subject to any state tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee. (V.T.I.C. Art. 3.50-2, Sec. 10(b).)

Source Law

(b) Policies, insurance contracts, certificates of coverage, evidence of coverage, and agreements with health maintenance organizations and plan administrators, or any other coverages established under this Act, shall not be subject to any state tax, regulatory fee, or surcharge, including premium or maintenance taxes or fees.

Revised Law

Sec. 1551.013. COMBINING OF CARRIERS NOT RESTRAINT OF TRADE. Carriers combining to bid, underwrite, or both bid and underwrite for the group benefits program are not in violation of Chapter 15, Business & Commerce Code. (V.T.I.C. Art. 3.50-2, Sec. 3(a)(9) (part).)

Source Law

(9) . . . providing, however, that for purposes of this Act carriers combining for the purpose of bidding and/or underwriting this program shall not be considered in violation of Sections 15.01 through 15.34, Chapter 15, Title 2, Competition and Trade Practices, Texas Business & Commerce Code.

Revisor's Note

Section 3(a)(9), V.T.I.C. Article 3.50-2, refers to "Sections 15.01 through 15.34, Chapter 15, Title 2, Competition and Trade Practices, Texas Business & Commerce Code." Because some of the sections referred to have been repealed, the revised law omits specific references to sections and refers only to Chapter 15, Business & Commerce Code.

Revisor's Note

(End of Subchapter)

Sections 3(a)(12), (13), (21), and (22), V.T.I.C. Article 3.50-2, define "active employee plan," "retired employees plan," "Texas Tech University," and "University of Houston System." The revised law omits these definitions because the defined terms are not used in the source law for this chapter or in

the revision. The omitted definitions read:

(12) "Active employee plan" shall mean a plan or program of group coverages as determined by the trustee as defined in Paragraph (11) above for the benefit of employees as defined in this Act who are not retired.

(13) "Retired employees plan" shall mean a plan or program of group coverages as determined by the trustee for all retired employees as defined in this Act. . . .

(21) "Texas Tech University" means Texas Tech University, the Texas Tech University Museum, and the Texas Tech University Health Sciences Center.

(22) "University of Houston System" means the entities governed under Section 111.20, Education Code.

[Sections 1551.014-1551.050 reserved for expansion]

SUBCHAPTER B. ADMINISTRATION AND IMPLEMENTATION

Revised Law

Sec. 1551.051. ADMINISTRATION AND IMPLEMENTATION. The administration and implementation of this chapter are vested solely in the board of trustees. (V.T.I.C. Art. 3.50-2, Sec. 4 (part).)

Source Law

Sec. 4. The administration and implementation of this Act are vested solely in the trustee. . . .

Revised Law

Sec. 1551.052. AUTHORITY FOR RULES, PLANS, PROCEDURES, AND ORDERS. (a) The board of trustees may adopt rules consistent with this chapter as it considers necessary to implement this chapter and its purposes, including rules that provide standards for determining eligibility for participation in the group benefits program, including standards for determining disability.

(b) The board of trustees may adopt a plan, procedure, or order reasonably necessary to implement this chapter and its purposes. (V.T.I.C. Art. 3.50-2, Secs. 4 (part), 4A (part).)

Source Law

Sec. 4. . . . The trustee shall have

full power and authority to promulgate all rules, regulations, plans, procedures, and orders reasonably necessary to implement and carry out the purposes and provisions of this Act in all its particulars, including but not limited to the following:

. . . .

(h) adoption of all rules and regulations consistent with the provisions of this Act and its purpose as it deems necessary to carry out its statutory duties and responsibilities;

. . . .

Sec. 4A. The trustee may adopt rules consistent with this Act that provide standards for determining eligibility for participation in the program established by this Act, including standards for determining disability. . . .

Revisor's Note

Section 4, V.T.I.C. Article 3.50-2, refers to purposes, "including but not limited to the following" purposes. "[B]ut not limited to the following" is omitted from the revised law as unnecessary because Section 311.005(13), Government Code (Code Construction Act), and Section 312.011(19), Government Code, provide that "include" and "including" are terms of enlargement and not of limitation and do not create a presumption that components not expressed are excluded.

Revised Law

Sec. 1551.053. AUTHORITY TO HIRE EMPLOYEES. (a) The board of trustees may hire employees as the board considers necessary to ensure the proper administration of this chapter and the coverages, services, and benefits provided for or authorized by this chapter.

(b) The board of trustees shall determine and assign the compensation and duties of the employees. (V.T.I.C. Art. 3.50-2, Sec. 4 (part).)

Source Law

Sec. 4. . . . As it shall deem necessary to insure the proper administration of this Act and the insurance coverages, services, and benefits provided for or authorized by this Act, the trustee, as an agency of the

State of Texas, shall have full power and authority to hire employees. The duties of such employees and their compensation shall be determined and assigned by the trustee. . . .

Revisor's Note

(1) Section 4, V.T.I.C. Article 3.50-2, refers to administration of "insurance coverages." It is clear that the language is intended to encompass any of the group coverages offered through the group benefits program, including health benefit plans offered in accordance with Section 3(a)(7), V.T.I.C. Article 3.50-2, revised in this chapter as Section 1551.005. Some of the coverage provided may not be insurance coverage. For example, coverage offered by a health maintenance organization is not insurance coverage. As a result, the revised law omits the reference to "insurance."

(2) Section 4, V.T.I.C. Article 3.50-2, refers to the trustee "as an agency of the State of Texas." The revised law omits this language as unnecessary because the trustee, which is the board of trustees provided for in Chapter 815, Government Code, to administer the Employees Retirement System of Texas, is clearly an agency of the state.

Revised Law

Sec. 1551.054. LIABILITY INSURANCE. The board of trustees may purchase liability insurance for the board and employees and agents of the board in amounts that the board, in its sole discretion, considers reasonable and necessary. (V.T.I.C. Art. 3.50-2, Sec. 4 (part).)

Source Law

Sec. 4. . . . [The trustee shall have full power and authority to promulgate all rules, regulations, plans, procedures, and orders reasonably necessary to implement and carry out the purposes and provisions of this Act in all its particulars, including but not limited to the following:]

. . .

(1) purchase of liability insurance for the coverage of the trustees, employees, and agents of the board of

trustees in such amounts as the board of trustees, in its sole discretion, considers reasonable and necessary;

. . . .

Revised Law

Sec. 1551.055. GENERAL POWERS OF BOARD OF TRUSTEES REGARDING COVERAGE PLANS. The board of trustees may:

(1) prepare specifications for a coverage provided under this chapter;

(2) prescribe the time and conditions under which an individual is eligible for a coverage provided under this chapter;

(3) determine the methods and procedures of claims administration;

(4) determine the amount of payroll deductions and reductions applicable to employees and annuitants and establish procedures to implement those deductions and reductions;

(5) establish procedures for the board of trustees to decide contested cases arising from a coverage provided under this chapter;

(6) study, on an ongoing basis, the operation of all coverages provided under this chapter, including gross and net costs, administration costs, benefits, utilization of benefits, and claims administration;

(7) administer the employees life, accident, and health insurance and benefits fund;

(8) provide the beginning and ending dates of coverages of participants under all benefit plans;

(9) develop basic group coverage plans applicable to all individuals eligible to participate in the group benefits program under Sections 1551.101 and 1551.102;

(10) provide for optional group coverage plans in addition to the basic group coverage plans;

(11) provide, as the board of trustees determines is appropriate, either additional statewide optional coverage plans or individual agency coverage plans;

(12) develop health benefit plans that permit access to high-quality, cost-effective health care;

(13) design, implement, and monitor health benefit plan features intended to discourage excessive utilization, promote efficiency, and contain costs;

(14) develop and refine, on an ongoing basis, a health benefit strategy consistent with evolving benefit delivery systems; and

(15) develop a funding strategy that efficiently uses employer contributions to achieve the purposes of this chapter and that is reasonable and ensures participants a fair choice

among health benefit plans as provided by Section 1551.302.
(V.T.I.C. Art. 3.50-2, Sec. 4 (part).)

Source Law

Sec. 4. . . . [The trustee shall have full power and authority to promulgate all rules, regulations, plans, procedures, and orders reasonably necessary to implement and carry out the purposes and provisions of this Act in all its particulars, including but not limited to the following:]

(a) preparation of specifications for coverages provided by authority of this Act;

(b) prescribing the time at which and the conditions under which an employee is eligible for all coverages provided under this Act;

(c) determination of the methods and procedures of claims administration;

(d) determination of the amount of employee payroll deductions and reductions and the responsibility of establishing procedures by which such deductions and reductions shall be made;

(e) establishment of procedures by which the trustee shall decide contested cases arising from programs or coverages provided under authority of this Act;

(f) continuing study of the operation of all coverages provided under this Act, including such matters as gross and net cost, administration costs, benefits, utilization of benefits, and claims administration;

(g) administration of the Employees Life, Accident, and Health Insurance and Benefits Fund, providing for the beginning and ending dates of coverages of employees and annuitants and their dependents under all benefit plans;

. . .

(i) development of basic plans of group coverages and benefits applicable to all employees. The trustee also may provide for optional group coverages and benefits in addition to the basic plan;

(j) to provide either additional

statewide optional programs or individual agency optional programs as the trustee may determine is appropriate;

. . .

(m) development of health benefits plans that permit access to high quality, cost-effective health care;

(n) designing, implementing, and monitoring health benefits plan features intended to discourage excessive utilization, promote efficiency, and contain costs;

(o) development and continuing refinement of a health care benefit strategy consistent with evolving benefit delivery systems; and

(p) development of a funding strategy to efficiently utilize employer contributions to achieve the purposes of this Act and which is reasonable and assures employees and retired employee annuitants a fair choice among health benefit plans as set out in Section 14 of this Act.

Revisor's Note

Section 4(i), V.T.I.C. Article 3.50-2, refers to the authority of the board of trustees for the "development of basic plans of group coverages and benefits applicable to all employees." The revised law omits the reference to "benefits" because in this context, "benefits" are clearly included within the meaning of "coverages."

Revised Law

Sec. 1551.056. INDEPENDENT ADMINISTRATOR. (a) The board of trustees may, on a competitive bid basis, contract with an entity to act for the board as an independent administrator or manager of the coverages, services, and benefits authorized under this chapter.

(b) The entity must be a qualified, experienced firm of group insurance specialists or an administering firm and shall assist the board of trustees in ensuring the proper administration of this chapter and the coverages, services, and benefits provided for or authorized by this chapter.

(c) The board of trustees shall pay an independent administrator selected under this section. (V.T.I.C. Art. 3.50-2, Sec. 4 (part).)

Source Law

Sec. 4. . . . The trustee may, on a competitive bid basis, contract with a qualified, experienced firm of group insurance specialists or an administering firm who shall act for the trustee in a capacity as independent administrators and managers of the programs authorized under this Act. The independent administrator so selected by the trustee shall assist the trustee to insure the proper administration of the Act and the coverages, services, and benefits provided for or authorized by the Act and shall be paid by the trustee. . . .

Revised Law

Sec. 1551.057. COMPENSATION OF PERSON EMPLOYED BY BOARD OF TRUSTEES. The board of trustees shall pay the compensation and expenses of a person employed by the board at the rate or in the amount approved by the board. The rate or amount may not exceed the rate or amount paid for similar services. (V.T.I.C. Art. 3.50-2, Sec. 4 (part).)

Source Law

Sec. 4. . . . Compensation of all persons employed by the trustee and their expenses shall be paid at such rates and in such amounts as the trustee shall approve, providing that in no case shall they be greater than those expenses paid for like or similar services. . . .

Revised Law

Sec. 1551.058. ELECTRONIC AUTHORIZATIONS. (a) The board of trustees may develop a system for a participant to electronically authorize:

- (1) enrollment in a coverage or benefit;
- (2) contributions to a coverage or benefit; and
- (3) deductions or reductions to the participant's compensation or annuity for participation in a coverage or benefit.

(b) Notwithstanding any other law, the board of trustees may permit or require an authorization covered by Subsection (a) to be made electronically. (V.T.I.C. Art. 3.50-2, Sec. 4C.)

Source Law

Sec. 4C. (a) The trustee may develop a

system for an employee or annuitant to electronically authorize:

(1) enrollment in a coverage or benefit program;

(2) contributions to a coverage or benefit program; and

(3) deductions or reductions to the compensation or annuity of the employee or annuitant for participation in a coverage or benefit program.

(b) The trustee may permit or require an authorization covered by Subsection (a) of this section to be made electronically, notwithstanding any law to the contrary.

Revised Law

Sec. 1551.059. CERTIFICATE OF COVERAGE. The board of trustees shall provide for issuance to each employee or annuitant participating in the group benefits program a certificate of coverage that states:

(1) the benefits to which the participant is entitled;

(2) to whom the benefits are payable;

(3) to whom a claim must be submitted; and

(4) the provisions of the plan document, in summary form, that principally affect the participant. (V.T.I.C. Art. 3.50-2, Sec. 6(a).)

Source Law

Sec. 6. (a) The trustees shall provide for the issuance to each employee insured under this Act a certificate of insurance setting forth the benefits to which the employee is entitled, to whom the benefits are payable, to whom the claims shall be submitted, and summarizing the provisions of the policy principally affecting the employee.

Revised Law

Sec. 1551.060. IDENTIFICATION CARDS. (a) The board of trustees may issue a single identification card to a participant in a health benefit plan and separately administered coverage under this chapter that offers pharmacy benefits.

(b) The card may contain information regarding both health and pharmacy benefits. (V.T.I.C. Art. 3.50-2, Sec. 6(b).)

Source Law

(b) The trustee may issue a single identification card to participants in a health benefits plan and separately administered coverage under this Act that offers pharmacy benefits. The card may contain information regarding both health and pharmacy benefits.

Revised Law

Sec. 1551.061. ANNUAL REPORT. The board of trustees shall submit a written report not later than January 1 of each year to the governor, lieutenant governor, speaker of the house of representatives, and Legislative Budget Board concerning the coverages provided and the benefits and services being received by all participants under this chapter. The report must include information about the effectiveness and efficiency of:

- (1) managed care cost containment practices; and
- (2) fraud detection and prevention procedures.

(V.T.I.C. Art. 3.50-2, Sec. 7.)

Source Law

Sec. 7. The trustee shall make a written report not later than January 1 of each year to the governor, lieutenant governor, speaker of the house of representatives, and Legislative Budget Board concerning the coverages provided and the benefits and services being received by all employees insured under the provisions of this Act and including information about the effectiveness and efficiency of managed care cost containment practices and fraud detection and prevention procedures.

Revised Law

Sec. 1551.062. INFORMATION ON OPERATION AND ADMINISTRATION OF CHAPTER. (a) The board of trustees shall:

(1) conduct a continuing study of the operation and administration of this chapter, including:

(A) conducting surveys and preparing reports on group coverages and benefits available to participants; and

(B) studying experience relating to group coverages and benefits available to participants; and

(2) maintain statistics on the number, type, and disposition of fraudulent claims for benefits under this chapter.

(b) A contract entered into under this chapter must require

a carrier to:

(1) furnish any reasonable report the board of trustees determines is necessary to enable the board to perform its functions under this chapter; and

(2) permit the board and a representative of the state auditor to examine records of the carrier as necessary to accomplish the purposes of this chapter.

(c) Each state agency shall keep records, make certifications, and furnish the board of trustees with information and reports necessary to enable the board to perform its functions under this chapter. (V.T.I.C. Art. 3.50-2, Sec. 17.)

Source Law

Sec. 17. (a) The trustee shall:

(1) make a continuing study of the operation and administration of this Act, including surveys and reports of group coverages and benefits available to employees and on the experience thereof; and

(2) maintain statistics on the number, type, and disposition of fraudulent claims for benefits under this Act.

(b) Each contract entered into under this Act shall contain provisions requiring carriers to

(1) furnish such reasonable reports as the trustee determines to be necessary to enable it to carry out its functions under this Act; and

(2) permit the trustee and representatives of the state auditor to examine records of the carriers as may be necessary to carry out the purposes of this Act.

(c) Each state department shall keep such records, make such certifications, and furnish the trustee with such information and reports as may be necessary to enable the trustee to carry out its functions under this Act.

Revised Law

Sec. 1551.063. CONFIDENTIALITY OF CERTAIN RECORDS. (a) The records of a participant in the group benefits program in the custody of the board of trustees, or of an administrator or carrier acting on behalf of the board, are confidential and not subject to disclosure and are exempt from the public access

provisions of Chapter 552, Government Code, except as provided by this section.

(b) The records may be released to a participant or to an authorized attorney, family member, or representative acting on behalf of the participant.

(c) The board of trustees may release the records to:

(1) an administrator, carrier, agent, or attorney acting on behalf of the board;

(2) another governmental entity;

(3) a medical provider of the participant to accomplish the purposes of this chapter; or

(4) a party in response to a subpoena issued under applicable law.

(d) The records of a participant remain confidential after release to a person as authorized by this section.

(e) The records of a participant may become part of the public record of an administrative or judicial proceeding related to a contested case under this chapter unless the records are closed to public access by a protective order issued under applicable law. (V.T.I.C. Art. 3.50-2, Sec. 10(c).)

Source Law

(c) The records of a participant in the Texas Employees Uniform Group Insurance Program in the custody of the trustee, or of an administrator or carrier acting on behalf of the trustee, are confidential and not subject to disclosure and are exempt from the public access provisions of Chapter 552, Government Code, except as provided by this subsection. Records may be released to a participant or to an authorized attorney, family member, or representative acting on behalf of the participant. The trustee may release the records to an administrator, carrier, or agent or attorney acting on behalf of the trustee, to another governmental entity, to a medical provider of the participant for the purpose of carrying out the purposes of this Act, or to a party in response to a subpoena issued under applicable law. The records of a participant remain confidential after release to a person as authorized by this subsection. The records of a participant may become part of the public record of an administrative or judicial proceeding related to a contested case under this Act, unless the records are

closed to public access by a protective order issued under applicable law.

Revised Law

Sec. 1551.064. CERTAIN GROUP HEALTH AND ACCIDENT POLICIES OR CONTRACTS. (a) This section applies only to a group policy or contract described by Section 3B(a), Article 3.51-6. A policy or contract executed under this chapter must provide that:

(1) premium payments must be:

(A) paid directly to the Employees Retirement System of Texas; and

(B) postmarked or received not later than the 10th day of the month for which the premium is due;

(2) the premium for group continuation coverage under Section 3B, Article 3.51-6, may not exceed the level established for other surviving dependents of deceased employees and annuitants;

(3) at the time the group policy or contract is delivered, issued for delivery, renewed, amended, or extended, the Employees Retirement System of Texas shall give notice of the continuation option to each state agency covered by the group benefits program; and

(4) each state agency shall give written notice of the continuation option to each employee and dependent of an employee who is covered by the group benefits program.

(b) A group policy or contract executed under this chapter must provide that, not later than the 15th day after the date of any severance of the family relationship that might activate the continuation option under Section 3B, Article 3.51-6, the group member shall give written notice of the severance to the employing state agency.

(c) On receipt of notice under Subsection (b) or on the death of an employee, the employing state agency shall give written notice of the continuation option to each affected dependent. The notice must state the amount of the premium to be charged and must be accompanied by any necessary enrollment forms.

(d) A covered dependent must exercise the continuation option not later than the 45th day after the date of:

(1) the severance of the family relationship; or

(2) the retirement or death of the group member.

(e) A covered dependent must provide written notice of the exercise of the continuation option to the employing state agency within the time prescribed by Subsection (d). Coverage under the policy or contract remains in effect during the period prescribed by Subsection (d) if the premiums are paid.

(f) Any period of previous coverage under the policy or contract must be used in full or partial satisfaction of any

required probationary or waiting periods provided in the policy or contract for dependent coverage. (V.T.I.C. Art. 3.51-6, Sec. 3B(m).)

Source Law

(m) Contracts executed pursuant to the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code) shall provide that:

(1) Premium payments must be remitted directly to the Employees Retirement System of Texas and must be postmarked or received not later than the 10th day of the month for which the premium is due.

(2) The premium for this group continuation coverage may not exceed the level established for other surviving dependents of deceased employees or retirees.

(3) At the time the health insurance policy is delivered, issued for delivery, renewed, amended, or extended on or after January 1, 1986, the Employees Retirement System of Texas shall give notice of the continuation option to each commission, agency, and institution covered by the program. The commissions, agencies, and institutions shall give written notice of the continuation option to each of their employees and each dependent of those employees who are covered by the health insurance program.

(4) Each member of the group shall give written notice to the employing agency within 15 days of any severance of family relationship that might activate the continuation option under Subsection (b) of this section. Upon receipt of such notice or upon the death of an employee, the employing agency shall give written notice to each affected dependent of the continuation option, which shall include a statement of the amount of the premium to be charged. Notice under this paragraph will be accompanied by any necessary enrollment forms.

(5) The covered dependent must exercise this continuation option within 45 days from the severance of the family

relationship or the retirement or death of the member and must provide written notification to the employing agency within 45 days. Coverage under the health insurance policy remains in effect during this 45-day period provided the policy premiums are paid.

(6) Any period of previous coverage under the health insurance policy is to be used in full or partial satisfaction of any required probationary or waiting periods provided in the contract for dependent coverage.

Revisor's Note

(1) Section 3B(m), V.T.I.C. Article 3.51-6, applies only to a policy or contract described by Section 3B(a) of that article. The revised law includes a reference to that section.

(2) Section 3B(m)(3), V.T.I.C. Article 3.51-6, refers to an insurance policy under the Texas Employees Uniform Group Insurance Benefits Act (revised as this chapter) that is "delivered, issued for delivery, renewed, amended, or extended on or after January 1, 1986." The revised law omits the reference to January 1, 1986, as obsolete; any insurance policy or contract under that act in effect now or in the future would have been delivered, issued, renewed, amended, or extended on or after that date.

Revisor's Note

(End of Subchapter)

Section 4, V.T.I.C. Article 3.50-2, authorizes the board of trustees to enter into interagency contracts. The revised law omits this provision because it duplicates the authorization provided for all state agencies by Chapter 771, Government Code. The omitted law reads:

Sec. 4. . . . Also, as an agency of the State of Texas, the trustee shall have full power and authority to enter into interagency contracts with any department of the State of Texas. The interagency contracts shall provide for reimbursement to the state departments and shall define the services to

be performed by the departments for the trustee. . . .

[Sections 1551.065-1551.100 reserved for expansion]

SUBCHAPTER C. COVERAGE AND PARTICIPATION

Revised Law

Sec. 1551.101. PARTICIPATION ELIGIBILITY: STATE OFFICERS AND EMPLOYEES. (a) An elected or appointed officer or employee who performs service, other than as an independent contractor, for this state, including an institution of higher education, and who is described by this section is eligible to participate in the group benefits program as an employee.

(b) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual receives compensation for service performed for this state pursuant to a payroll certified by a state agency, other than an institution of higher education, or by an elected or appointed officer of this state, including a payment made from:

(1) an amount appropriated by the legislature from a state fund;

(2) a trust fund held by the comptroller; or

(3) money paid under the official budget of a state agency, other than money appropriated under a general appropriations act.

(c) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual is appointed, subject to confirmation by the senate, as a member of the governing body with administrative responsibility over a statutory state agency that has statewide jurisdiction and whose employees are covered by this chapter.

(d) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual is a member of the State Board of Education or the governing body of an institution of higher education.

(e) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual receives compensation for service performed for an institution of higher education pursuant to a payroll certified by an institution of higher education or by an elected or appointed officer of this state and either:

(1) is eligible to be a member of the Teacher Retirement System of Texas; or

(2) is employed at least 20 hours a week and is not permitted to be a member of the Teacher Retirement System of Texas because the individual is employed by an institution of higher education only in a position that as a condition of employment requires the individual to be enrolled as a student in

the institution in graduate-level courses. (V.T.I.C. Art. 3.50-2, Secs. 3(a)(5) (part); 3A(a) (part).)

Source Law

(5)(A) "Employee" shall mean any appointive or elective officer or employee in the service of the State of Texas, including an employee of an institution of higher education:

. . . .

(iv) who receives compensation for services rendered to the State of Texas, other than an employee of an institution of higher education described by this subdivision, on a warrant issued pursuant to a payroll certified by a department or by an elected or duly appointed officer of this state;

(v) who receives payment for the performance of personal services on a warrant issued pursuant to a payroll certified by a department and drawn by the comptroller upon the State Treasury against appropriations made by the Texas Legislature from any state funds or against any trust funds held by the comptroller or who is paid from funds of an official budget of a state department, rather than from funds of the General Appropriations Act;

(vi) who is appointed, subject to confirmation of the senate, as a member of a board or commission with administrative responsibility over a statutory agency having statewide jurisdiction whose employees are covered by this Act;

(vii) who is a member of the governing body of an institution of higher education, as that term is defined by this Act;

(viii) who is a member of the State Board of Education;

(ix) who receives compensation for services rendered to an institution of higher education on a warrant or check issued pursuant to a payroll certified by an institution of higher education or by an elected or duly appointed

officer of this state, and who is eligible for participation in the Teacher Retirement System of Texas; or

(x) who receives compensation for services rendered to an institution of higher education as provided by this subdivision but is not permitted to be a member of the Teacher Retirement System of Texas because the person is solely employed by an institution of higher education that as a condition of employment requires the person to be enrolled as a student in an institution of higher education in graduate-level courses and who is employed by the institution at least 20 hours a week.

(B) Persons performing personal services for the State of Texas as independent contractors shall never be considered employees of the state for purposes of this Act.

Sec. 3A. (a) . . . An officer or employee of either system is an employee for purposes of this Act, and

Revisor's Note

(1) Section 3(a)(5), V.T.I.C. Article 3.50-2, describes certain employees of state agencies, including institutions of higher education, who receive compensation for services "on a warrant" or "on a warrant or check." The revised law omits the references to "warrant" and "check" because Chapter 2103, Government Code, which applies to all state agencies, including institutions of higher education, and provides for the manner of payment by which an employee of a state agency may be compensated for services, has been amended since Section 3(a)(5) was enacted to include payment of state employees by electronic funds transfer.

(2) Sections 3(a)(5)(A)(iv) and (v), V.T.I.C. Article 3.50-2, describe employees of state agencies that are eligible to participate in the group benefits program. The clear legislative intent of Section 3(a)(5)(A)(v) is to provide that state employees paid from any of the funds

described by Section 3(a)(5)(A)(v) are eligible to participate. Because Sections 3(a)(5)(A)(iv) and (v) together cover all state employees paid from any state money or fund, the revised law combines those sections into a single provision.

(3) Section 3(a)(5)(A)(vi), V.T.I.C. Article 3.50-2, refers to a "board or commission" with administrative responsibility over certain statutory agencies. The revised law substitutes "governing body" for "board or commission" because it is clear that the legislature intended to describe any governing body, by whatever name described.

Revised Law

Sec. 1551.102. PARTICIPATION ELIGIBILITY: ANNUITANTS. (a) An individual who has at least three years of service for which the individual was eligible to participate in the group benefits program under Section 1551.101 and who retires in a manner described by this section is eligible to participate as an annuitant in the group benefits program.

(b) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual:

(1) retires under the jurisdiction of the Employees Retirement System of Texas; and

(2) receives or is eligible to receive an annuity under Subtitle B, D, or E, Title 8, Government Code, or Chapter 803, Government Code, that is based on at least 10 years of service credit or eligibility under Section 814.002 or 814.102, Government Code.

(c) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual:

(1) retires under the jurisdiction of the Teacher Retirement System of Texas;

(2) receives or is eligible to receive an annuity under Subtitle C, Title 8, Government Code, or Chapter 803, Government Code, that is based on at least 10 years of service credit; and

(3) was employed, as the last state employment before retirement, including employment by a public junior college, by a state agency whose employees are authorized to participate in the group benefits program.

(d) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual:

(1) retires under the optional retirement program established by Chapter 830, Government Code; and

(2) receives or is eligible to receive an annuity

under that program and the individual:

(A) would have been eligible to retire and receive a service retirement annuity from the Teacher Retirement System of Texas or the Employees Retirement System of Texas based on at least 10 years of service credit if the individual had not elected to participate in the optional retirement program; or

(B) is disabled as determined by the Employees Retirement System of Texas.

(e) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual retired under Subtitle C, Title 8, Government Code, before September 1, 1991, with at least five and less than 10 years of service credit.

(f) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual is a retired officer or employee of a retirement system described by Section 1551.111.

(g) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual retires under a federal or state statutory retirement program not described by another provision of this section, to which an institution of higher education has made employer contributions, and the individual has met service requirements, age requirements, and other applicable requirements comparable to the requirements for retirement under the Teacher Retirement System of Texas, based on at least 10 years of service credit. (V.T.I.C. Art. 3.50-2, Secs. 3(a)(2), (5) (part); 3(c); 3A(a) (part).)

Source Law

(2) "Annuitant" shall mean an officer or employee who has at least three years of service as an eligible employee with a department whose employees are authorized to participate in the Texas employees group benefits group insurance benefits program and who retires under:

(A) the jurisdiction of the Employees Retirement System of Texas and either receives an annuity or is eligible to receive an annuity, pursuant to Subtitle B, D, or E of Title 8, Government Code, or Chapter 803, Government Code, that is based on at least 10 years of service credit or eligibility under Section 814.002 or 814.102, Government Code;

(B) the jurisdiction of the Teacher Retirement System of Texas and either receives an annuity or is eligible to receive

an annuity, pursuant to Subtitle C, Title 8, Government Code, or Chapter 803, Government Code, that is based on at least 10 years of service credit, whose last state employment prior to retirement, including employment by a public community/junior college, was as an employee of a department whose employees are authorized to participate in the Texas employees group benefits group insurance program;

(C) the optional retirement program established by Chapter 830, Government Code, and either receives an annuity or is eligible to receive an annuity under that program, if the person either:

(i) would have been eligible to retire and receive a service retirement annuity from the Teacher Retirement System of Texas or the Employees Retirement System of Texas based on at least 10 years of service credit had the person not elected to participate in the optional retirement program; or

(ii) is disabled as determined by the Employees Retirement System of Texas; or

(D) any other federal or state statutory retirement program to which an institution of higher education has made employer contributions, if the employee has met service requirements, age requirements, and other applicable requirements comparable to the requirements for retirement under the Teacher Retirement System of Texas, based on at least 10 years of service credit.

(5)(A) ["Employee" shall mean any appointive or elective officer or employee in the service of the State of Texas, including an employee of an institution of higher education:]

(i) who is retired or retires and is an annuitant under the jurisdiction of the Employees Retirement System of Texas, pursuant to Subtitle B, D, or E;

(ii) who is retired or retires and is an annuitant under the

jurisdiction of the Teacher Retirement System of Texas, pursuant to Subtitle C, Title 8, Government Code, or pursuant to Chapter 803, Government Code, and whose last employment with the state prior to retirement, including employment by a public community/junior college, was as an employee of a department whose employees are authorized to participate in the Texas employees group benefits group insurance program;

(iii) who is retired or retires and is an annuitant under the optional retirement program established by Chapter 830, Government Code, if the person's last state employment before retirement, including employment by a public community/junior college, was as an employee of a department whose employees are authorized to participate in the Texas employees group benefits group insurance program, and if the person either:

(a) would have been eligible to retire and receive a service retirement annuity from the Teacher Retirement System of Texas or the Employees Retirement System of Texas had the person not elected to participate in the optional retirement program; or

(b) is disabled as determined by the Employees Retirement System of Texas;

. . . .

(c) Notwithstanding Subsection (a)(2) of this section, a person who, before September 1, 1991, retired under Subtitle C, Title 8, Government Code, with at least 5 but less than 10 years of service is also an annuitant for purposes of this Act.

Sec. 3A. (a) . . . a retired officer or employee of either system is an annuitant for purposes of this Act. . . .

Revised Law

Sec. 1551.103. RIGHT TO COVERAGE. Subject to Section 1551.351, an individual eligible to participate in the group benefits program under Section 1551.101 or 1551.102 may not be denied any group coverage under this chapter. (V.T.I.C.

Art. 3.50-2, Sec. 13(a).)

Source Law

Sec. 13. (a) Except as provided by Section 13A of this Act, no employee of the State of Texas shall be denied any of the group coverage provided under this Act.

Revised Law

Sec. 1551.104. AUTOMATIC COVERAGE. (a) Each full-time employee is covered automatically by the basic coverage plan for employees and each annuitant is covered by the basic coverage plan for annuitants unless:

(1) participation is specifically waived; or
(2) the employee or annuitant is expelled from the program under Section 1551.351.

(b) This section does not apply to an employee described by Section 1551.101(e)(2). (V.T.I.C. Art. 3.50-2, Sec. 13(b) (part).)

Source Law

(b) Unless participation is waived specifically or unless an employee or employee-annuitant is expelled from the program under Section 13A of this Act, every full-time employee except one who is described by Section 3(a)(5)(A)(x) of this Act shall be covered automatically by the basic plan for active full-time employees and every employee-annuitant shall be covered by the basic plan for retired employee-annuitants. . . .

Revised Law

Sec. 1551.105. DATE AUTOMATIC COVERAGE BEGINS. Automatic coverage under this subchapter begins on the date an employee or annuitant becomes eligible for coverage. (V.T.I.C. Art. 3.50-2, Sec. 13(b) (part).)

Source Law

(b) . . . Coverage shall begin on the date he becomes eligible, and

Revised Law

Sec. 1551.106. GROUP COVERAGE PLAN PURCHASED TO PROVIDE FOR AUTOMATIC COVERAGE. A group coverage plan purchased by the board of trustees must provide for the automatic coverage described by this subchapter. (V.T.I.C. Art. 3.50-2, Sec. 13(b) (part).)

Source Law

(b) . . . each policy of insurance purchased by the trustee shall provide for such automatic coverage.

Revised Law

Sec. 1551.107. CONTINGENT COVERAGE. (a) Each part-time employee or employee eligible to participate in the group benefits program under Section 1551.101(e)(2) may participate in the program on execution of an appropriate application for coverage unless the employee is:

(1) ineligible for the group benefits program under Section 1551.110; or

(2) expelled from the group benefits program under Section 1551.351.

(b) An institution of higher education shall, at the time of employment, notify each of the institution's employees eligible to participate in the group benefits program under Section 1551.101(e)(2) of the employee's eligibility to participate. (V.T.I.C. Art. 3.50-2, Sec. 13(c).)

Source Law

(c) Unless expelled from the program under Section 13A of this Act or ineligible for the program under Section 13C of this Act, each part-time employee and each employee of an institution of higher education who is described by Section 3(a)(5)(A)(x) of this Act is eligible for participation in the group programs provided under this Act upon execution of appropriate application for coverage. An institution of higher education shall, at the time of employment, notify each eligible employee of the institution who is described by Section 3(a)(5)(A)(x) of this Act of the employee's eligibility to participate in the group programs provided under this Act.

Revised Law

Sec. 1551.108. CONTINUING ELIGIBILITY OF CERTAIN PERSONS WITH LEGISLATIVE SERVICE OR EMPLOYMENT. Subject to Section 1551.351, on application to the board of trustees and on arrangement for payment of contributions and postage:

(1) an individual who has at least eight years of service credit in the Employees Retirement System of Texas for service as a member of the legislature, on ending the

individual's service in the legislature, remains eligible for participation in the group benefits program; and

(2) an individual who has at least 10 years of service credit in the Employees Retirement System of Texas as an employee of the legislature, on ending the individual's service for the legislature, remains eligible for participation in the group benefits program. (V.T.I.C. Art. 3.50-2, Sec. 13(d).)

Source Law

(d) Except as provided by Section 13A of this Act, on application to the trustee and on arrangement for payment of contributions and postage:

(1) a person who has at least eight years creditable legislative service, as defined in Section 22.002, Title 110B, Revised Statutes, on ending his or her service in the legislature, continues to be eligible for participation in the group programs under this Act;

(2) a person who has at least 10 years of creditable service in the Employees Retirement System, as defined in Section 22.003, Title 110B, Revised Statutes, as an employee of the legislature, on ending his or her service for the legislature, continues to be eligible for participation in the group programs under this Act.

Revisor's Note

Section 13(d), V.T.I.C. Article 3.50-2, refers to certain forms of service, defined in Sections 22.002 and 22.003, Title 110B, Revised Statutes. Those statutes were renumbered in 1989 as Sections 812.002 and 812.003, Government Code. The revised law omits the references to Sections 812.002 and 812.003, Government Code, because those sections do not define service, and instead substitutes a description of the appropriate type of service credit in the Employees Retirement System of Texas.

Revised Law

Sec. 1551.109. CONTINUING ELIGIBILITY OF CERTAIN MEMBERS OF BOARDS, COMMISSIONS, AND INSTITUTIONS OF HIGHER EDUCATION. (a) Subject to Section 1551.351, on application to the board of trustees and arrangement for payment of contributions, a former

member of a governing body described by Section 1551.101(c) or a former member of the governing body of an institution of higher education remains eligible for participation in a health benefit plan offered under this chapter if a lapse in coverage after the end of the former member's term has not occurred.

(b) A participant described by this section may not receive a state contribution for premiums. The governing body of an institution of higher education may pay from local funds part or all of the contributions the state would pay for similar coverage of other participants in the group benefits program.

(c) The participant's contribution for coverage under a health benefit plan may not be greater than the contribution for continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. No. 99-272). (V.T.I.C. Art. 3.50-2, Sec. 13(e).)

Source Law

(e) Except as provided by Section 13A of this Act, on application to the trustee and arrangement for payment of contributions, a former member of a board or commission described by Section 3(a)(5)(A)(vi) of this Act or a former member of the governing body of an institution of higher education remains eligible for participation in a group health coverage plan offered under this Act as long as no lapse in coverage occurs after the end of the former member's term. A participant described by this subsection may not receive a state contribution for premiums, but the governing body of an institution of higher education may elect to pay from local funds part or all of the contributions the state would pay for similar coverage of other participants in the program. The participant's contribution for coverage under a group health coverage plan may not be greater than the contribution for continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. No. 99-272).

Revised Law

Sec. 1551.110. INELIGIBILITY OF CERTAIN JUNIOR COLLEGE EMPLOYEES. (a) Except as provided by Subsections (c) and (d), an employee of a public junior college who is employed to perform services outside this state is not eligible to participate in the group benefits program unless the college elects, under

procedures adopted by the board of trustees, to permit the employee to participate in the group benefits program.

(b) For purposes of this section, an employee is employed to perform services outside this state if 75 percent or more of the services performed by the employee are performed outside this state.

(c) This section does not apply to an individual employed by a public junior college on August 31, 1999. That individual remains eligible to participate in the group benefits program in the same manner as other employees of the college even if the individual's employment by the college is not continuous.

(d) An employee of a public junior college who is employed to perform services outside this state and who is employed after June 18, 1999, is eligible to participate in a group coverage provided under this chapter if the coverage is provided under an insurance policy, contract, or other agreement that:

(1) is in effect on June 18, 1999; and

(2) requires that the employee be eligible to participate in the coverage provided under the agreement.

(e) Eligibility to participate in a coverage under Subsection (d) ends on the date the insurance policy, contract, or other agreement is terminated or renewed. (V.T.I.C. Art. 3.50-2, Sec. 13C; Acts 76th Leg., R.S., Ch. 662, Sec. 3.)

Source Law

Sec. 13C. (a) An employee of a public community/junior college who is employed to perform services outside of this state is not eligible to participate in the group programs provided under this Act unless the college elects, in accordance with procedures adopted by the trustee, to permit such employees to participate in those programs.

(b) For purposes of this section, an employee is employed to perform services outside of this state if 75 percent or more of the services performed by the employee are performed outside of this state.

(c) This section does not apply to a person employed by a public community/junior college on August 31, 1999. That person remains eligible to participate in the group programs provided by this Act, in the same manner as other employees of the college, even if the person's employment by the college is not continuous.

Sec. 3. (a) Notwithstanding Section 13C, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as added by this Act, an employee of a public community/junior college who is employed to perform services outside of this state and who is employed after the effective date of this Act is eligible to participate in a group program provided under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), if the program is provided under an insurance policy, contract, or other agreement that:

(1) is in effect on the effective date of this Act; and

(2) requires that the employee be eligible to participate in the program provided under the insurance policy, contract, or other agreement.

(b) Eligibility to participate in a group program under Subsection (a) of this section terminates on the date that the insurance policy, contract, or other agreement is terminated or renewed.

Revisor's Note

Section 3, Chapter 662, Acts of the 76th Legislature, Regular Session, 1999, refers to certain acts taking place "after the effective date of this Act" and certain documents in effect "on the effective date of this Act." Chapter 662 became effective June 18, 1999, and the revised law is drafted accordingly.

Revised Law

Sec. 1551.111. PARTICIPATION BY CERTAIN RETIREMENT SYSTEMS.

(a) The Texas Municipal Retirement System and the Texas County and District Retirement System shall participate in the group benefits program in the manner described by this section.

(b) Participation is limited to:

(1) an officer or employee of either system;

(2) an eligible dependent of an officer or employee of either system;

(3) an individual who:

(A) was an officer or employee of either system;

(B) has retired from either system;

(C) receives or is eligible to receive an annuity

from either system or under Chapter 803, Government Code, based on at least 10 years of service credit; and

(D) has at least three years of service with a state agency whose employees are authorized to participate in the group benefits program; and

(4) an eligible dependent of a retired officer or employee described by Subdivision (3).

(c) Participation in the group benefits program does not extend to:

(1) the governing body of either system;

(2) a municipality or subdivision participating in either system; or

(3) a trustee, officer, or employee, or a dependent of a trustee, officer, or employee, of a participating municipality or subdivision.

(d) A participant described by this section may not receive a state contribution for premiums. (V.T.I.C. Art. 3.50-2, Sec. 3A(a) (part).)

Source Law

Sec. 3A. (a) . . . Participation is limited to the officers and employees of the systems; eligible dependents of the officers and employees; persons who have retired from either system, who receive or are eligible to receive an annuity from either system or under Chapter 803, Government Code, based on at least 10 years of service credit, who have at least three years of service with a department, including either system, whose employees are authorized to participate in the program provided by this Act, and who were officers or employees of either system; and eligible dependents of the retired officers and employees. . . . Participation under this subsection does not include the governing bodies of either system, the municipalities or subdivisions participating in either system, or the trustees, officers, or employees, or their dependents, of the participating municipalities or subdivisions. A participant described by this subsection may not receive a state contribution for premiums.

Revised Law

Sec. 1551.112. PARTICIPATION BY TEXAS TURNPIKE AUTHORITY.

(a) An individual may participate in the group benefits program

as an annuitant and may obtain coverage for the individual's dependents as any other participating annuitant if the individual:

(1) began employment with, or became an officer of, the Texas Turnpike Authority within the three-year period preceding August 31, 1997;

(2) was an officer or employee of the Texas Turnpike Authority on August 31, 1997;

(3) became an officer or employee of the North Texas Tollway Authority on September 1, 1997; and

(4) retires or is eligible to retire with at least 10 years of service credit under the proportionate retirement program established by Chapter 803, Government Code, or under a public retirement system to which Chapter 803 applies.

(b) The North Texas Tollway Authority is responsible for payment of the contributions the state would make if the annuitant were a state employee. (V.T.I.C. Art. 3.50-2, Sec. 3A(b).)

Source Law

(b) A person who began employment with, or became an officer of, the Texas Turnpike Authority within the three-year period preceding August 31, 1997, who was an officer or employee of the Texas Turnpike Authority on that date, who became an officer or employee of the North Texas Tollway Authority on September 1, 1997, and who retires or is eligible to retire with at least 10 years of service credit under the proportionate retirement program established by Chapter 803, Government Code, or under one of the public retirement systems to which Chapter 803 applies may participate in the programs and coverages provided by this Act as an annuitant and may obtain coverage for the person's dependents as any other participating annuitant. The North Texas Tollway Authority is responsible for payment of the contributions the state would make if the annuitants were state employees.

Revised Law

Sec. 1551.113. PARTICIPATION BY CERTAIN EMPLOYEES WHOSE POSITIONS ARE PRIVATIZED OR ELIMINATED. (a) An individual described by Subsection (b) is entitled to receive state contributions required to provide health benefit plan coverage under the group benefits program for two months after the

effective date of the individual's separation from state service.

(b) This section applies only to an individual who separates from state service and receives a cash payment under an incentive program implemented by the Texas Department of Human Services or the Texas Department of Health for certain employees whose positions are eliminated as a result of privatization or other reductions in services provided by those agencies.

(V.T.I.C. Art. 3.50-2, Sec. 3B.)

Source Law

Sec. 3B. (a) This section applies only to a person who separates from state service and receives a cash payment under an incentive program implemented by the Texas Department of Human Services or the Texas Department of Health with respect to certain employees whose positions are eliminated as a result of privatization or other reductions in services provided by those agencies.

(b) A person is entitled to receive state contributions required to provide health coverage under the program administered by the trustee under this Act for two months after the effective date of the person's separation from state service.

[Sections 1551.114-1551.150 reserved for expansion]

SUBCHAPTER D. COVERAGE FOR DEPENDENTS

Revised Law

Sec. 1551.151. ENTITLEMENT TO COVERAGE. An individual who is eligible to participate in the group benefits program under Section 1551.101 or 1551.102 is entitled to secure for a dependent of the individual any group coverages provided under this chapter, as determined by the board of trustees and subject to the exceptions provided by this subchapter. (V.T.I.C. Art. 3.50-2, Sec. 19(a) (part).)

Source Law

Sec. 19. (a) Any employee or annuitant shall be entitled to secure for his dependents any uniform group coverages provided for employees under this Act, as shall be determined by the trustee, except that

Revised Law

Sec. 1551.152. ELIGIBILITY OF FOSTER CHILD. A foster child

is eligible for health benefit plan coverage only if the child is not covered by another governmental health program. (V.T.I.C. Art. 3.50-2, Sec. 19(a) (part).)

Source Law

(a) . . . a foster child is eligible for health insurance coverage only if the child is not covered by another governmental health program. . . .

Revised Law

Sec. 1551.153. PARTICIPANT RESIDING OUTSIDE OF SERVICE AREA. An individual who is eligible to participate in the group benefits program under Section 1551.101 or 1551.102 and who resides outside of a health maintenance organization service area is entitled to group coverages for a dependent of the individual without evidence of insurability if the individual applies for the coverage for the dependent during the annual enrollment period. (V.T.I.C. Art. 3.50-2, Sec. 19(a) (part).)

Source Law

(a) . . . If an employee or annuitant resides outside of a health maintenance organization service area, the group benefits group coverages must be made available to a dependent without evidence of insurability if the employee or annuitant applies for the coverage for the dependent during the annual enrollment period. . . .

Revised Law

Sec. 1551.154. EMPLOYEE PAYMENTS. In the manner and form the board of trustees determines, payments required of an employee in excess of employer contributions shall be made by:

(1) a deduction from the employee's monthly pay or retirement benefits; or

(2) a reduction of the employee's salary. (V.T.I.C. Art. 3.50-2, Sec. 19(a) (part).)

Source Law

(a) . . . Payments required of the employee in excess of employer contributions shall be deducted from the monthly pay of the employee or from his retirement benefits, or the employee's salary shall be reduced in the appropriate amount, in such manner and form as the trustee shall determine.

Revisor's Note

Section 19(a), V.T.I.C. Article 3.50-2, refers to the reduction "in the appropriate amount" of the employee's salary to make certain payments for coverage of dependents. The revised law omits "in the appropriate amount" as unnecessary because it is clear that the amount of reduction is the amount of payment in excess of employer contributions.

Revised Law

Sec. 1551.155. COVERAGE OPTIONS FOR SURVIVING SPOUSE. (a) A surviving spouse of an individual who is eligible to participate in the group benefits program under Section 1551.101 or 1551.102 and who is entitled to monthly benefits paid by a retirement system named in this chapter may, following the death of the individual, elect to retain:

- (1) the spouse's authorized coverages; and
- (2) authorized coverages for any dependent of the spouse.

(b) The coverage is at the group rate for other participants if:

- (1) the coverage was previously secured by the deceased participant for the surviving spouse or dependent; and
- (2) the surviving spouse directs the applicable retirement system to deduct required contributions from the monthly benefits paid to the spouse by the retirement system.

(V.T.I.C. Art. 3.50-2, Sec. 19(b) (part).)

Source Law

(b) A surviving spouse of an employee or a retiree who is entitled to monthly benefits paid by a retirement system named in this Act may, following the death of the employee or retiree, elect to retain the spouse's authorized coverages and also retain authorized coverages for any dependent of the spouse, at the group rate for employees, provided such coverage was previously secured by the employee or retiree for the spouse or dependent, and the spouse directs the applicable retirement system to deduct required contributions from the monthly benefits paid the surviving spouse by the retirement system. . . .

Revised Law

Sec. 1551.156. COVERAGE OPTIONS FOR DEPENDENT WHEN THERE IS NO SURVIVING SPOUSE. (a) A surviving dependent of an annuitant

who was receiving monthly benefits paid by a retirement system named in this chapter may, following the death of the annuitant if there is not a surviving spouse, elect to retain any coverage previously secured by the annuitant until the dependent becomes ineligible for coverage for a reason other than the death of the member of the group.

(b) The coverage is at the group rate for other participants.

(c) A dependent who elects to retain coverage under this section and who is entitled to monthly benefits from a retirement system named in this chapter based on the service of the deceased annuitant must direct the retirement system to deduct required contributions for the coverage from the monthly benefits paid the surviving dependent by the retirement system. (V.T.I.C. Art. 3.50-2, Sec. 19(b) (part).)

Source Law

(b) . . . A surviving dependent of a retiree who was receiving monthly benefits paid by a retirement system named in this Act may, after the death of the retiree and if the retiree leaves no surviving spouse, elect to retain any coverage previously secured by the retiree, at the group rate for employees, until the dependent becomes ineligible for coverage for a reason other than the death of the member of the group. A dependent who makes an election under this subsection and who is entitled to monthly benefits from a retirement system named in this Act based on the service of the deceased retiree must direct the applicable retirement system to deduct required contributions for the coverage from the monthly benefits paid the surviving dependent by the retirement system. . . .

Revised Law

Sec. 1551.157. COVERAGE OPTIONS AFTER EXPIRATION OF ANNUITY OPTION. The surviving spouse or dependent of an employee or annuitant may retain authorized coverages after expiration of a time-certain annuity option selected by the employee or annuitant. To retain the coverages, the surviving spouse or dependent must make advance payment of contributions to the Employees Retirement System of Texas under rules adopted by the board of trustees. (V.T.I.C. Art. 3.50-2, Sec. 19(c).)

Source Law

(c) The surviving spouse of an employee or a retiree who designated or selected a time certain annuity option or a surviving dependent of a retiree who designated or selected a time certain annuity option, upon expiration of the annuity option may retain authorized coverages by advance payment of contributions to the Employees Retirement System of Texas under rules and regulations adopted by the trustee.

Revised Law

Sec. 1551.158. REINSTATEMENT OF HEALTH BENEFIT PLAN COVERAGE BY CERTAIN DEPENDENTS. (a) A dependent child who is unmarried and whose coverage under this chapter ends when the child becomes 25 years of age may, on expiration of continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. No. 99-272), reinstate health benefit plan coverage under this chapter if the child, or the child's participating parent, pays the full cost of the health benefit plan coverage.

(b) A state contribution is not payable for coverage under this section.

(c) Coverage under this section terminates at the end of the month in which the child marries. (V.T.I.C. Art. 3.50-2, Sec. 19(d).)

Source Law

(d) A dependent child who is unmarried and whose coverage under this Act ceases when the child reaches the age of 25 may, on expiration of continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272), reinstate health benefits coverage under this Act if the child, or the child's participating parent, pays the full cost of the health benefits coverage. A state contribution is not payable for coverage described by this subsection. Coverage under this subsection ceases at the end of the month in which the child marries.

Revised Law

Sec. 1551.159. COVERAGE FOR CERTAIN DEPENDENT CHILDREN OF EMPLOYEES. (a) Subject to any applicable limit in the General

Appropriations Act, the board of trustees shall use money appropriated for employer contributions to fund 80 percent of the cost of basic coverage for a child who:

- (1) is a dependent of an employee;
- (2) would be eligible, if the child were not the dependent of the employee, for benefits under the program established by the state to implement Title XXI, Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended; and

- (3) is not eligible for the state Medicaid program.

(b) The board of trustees shall notify employees that:

- (1) they may be eligible for dependent child coverage under Subsection (a); and

- (2) an employee may apply for the coverage as provided by Subsection (c).

(c) To obtain dependent child coverage under Subsection (a), the employee must apply to the Texas Department of Human Services or other agency designated by the Health and Human Services Commission to perform eligibility screening under this section. The eligibility screening shall be coordinated with eligibility screening for the state Medicaid program. The agency that performs the eligibility screening shall certify to the board of trustees in writing whether a child is eligible for dependent child coverage under Subsection (a).

(d) If an employee does not obtain dependent child coverage under this section at the time the individual begins service to the state, the employee may apply for the coverage during the annual open enrollment period applicable to the employee's coverage under this chapter. The board of trustees may:

- (1) continue the coverage until the next annual open enrollment period applicable to the employee's coverage, without regard to any change in status of the child; or

- (2) adopt rules requiring an employee, during the period the coverage is in effect, to report a change in status that would make the dependent child ineligible for coverage and may terminate the coverage on receipt of the report of a change in status.

(e) The board of trustees may require an employee to reapply for dependent child coverage under this section during each annual open enrollment period applicable to the employee's coverage. The board of trustees and the Texas Department of Human Services or other agency designated by the Health and Human Services Commission to perform eligibility screening under this section shall cooperate to develop a cost-effective method for annual reevaluation of eligibility determinations for dependent child coverage under this section.

(f) The board of trustees may pay a higher percentage of the cost of basic coverage for a child described by Subsection (a) than the percentage required by Subsection (a) if money

becomes available for that purpose.

(g) If the program established under Chapter 62, Health and Safety Code, using federal funding under Title XXI, Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, is terminated, state contributions for benefits for those eligible under Subsection (a) also terminates. (V.T.I.C. Art. 3.50-2, Sec. 14A.)

Source Law

Sec. 14A. (a) Subject to any applicable limit in the General Appropriations Act, the trustee shall use money appropriated for employer contributions to fund 80 percent of the cost of basic coverage for a child who:

- (1) is a dependent of an employee;
- (2) would be eligible, if the child were not the dependent of the employee, for benefits under the program established by this state to implement Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended; and
- (3) is not eligible for the state Medicaid program.

(b) The trustee shall notify employees that they may be eligible for dependent child coverage under Subsection (a) of this section and notify the employee that:

- (1) the employee may be eligible for dependent child coverage under Subsection (a) of this section; and
- (2) the employee may apply for the coverage as provided by Subsection (c) of this section.

(c) An employee who desires dependent child coverage under this section shall apply to the Texas Department of Human Services or other agency designated by the Health and Human Services Commission to perform eligibility screening under this section. The eligibility screening shall be coordinated with eligibility screening for the state Medicaid program. The agency that performs the eligibility screening shall certify to the trustee in writing whether a child is eligible for dependent child coverage under Subsection (a) of this section.

(d) If an employee does not obtain

dependent child coverage under this section at the time the employee is initially employed, the employee may apply for the coverage during the annual open enrollment period applicable to the employee's coverage under this Act. The trustee may:

(1) continue the coverage until the next annual open enrollment period applicable to the employee's coverage, without regard to any change in status of the child; or

(2) adopt rules requiring an employee, during the period the coverage is in effect, to report a change in status that would make the dependent child ineligible for coverage and may terminate the coverage on receipt of the report of a change in status.

(e) The trustee may require an employee to re-apply for dependent child coverage under this section during each annual open enrollment period applicable to the employee's coverage. The trustee and the Texas Department of Human Services or other agency designated by the Health and Human Services Commission to perform eligibility screening under this section shall cooperate to develop a cost-effective method for annual re-evaluation of eligibility determinations for dependent child coverage under this section.

(f) Notwithstanding Subsection (a) of this section, the trustee may pay a higher percentage of the cost of basic coverage for a child described by Subsection (a) of this section if money becomes available for that purpose.

(g) If the program established under Chapter 62, Health and Safety Code, which utilizes federal funding under Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, is terminated, state contributions for benefits for those eligible under Subsection (a) of this section shall terminate as well.

[Sections 1551.160-1551.200 reserved for expansion]

SUBCHAPTER E. GROUP COVERAGES

Revised Law

Sec. 1551.201. ESTABLISHMENT. (a) The board of trustees by rule shall establish group coverage plans for individuals eligible to participate in the group benefits program.

(b) The group coverage plans may, in the board of trustees' discretion, include:

- (1) life coverage;
- (2) accidental death and dismemberment coverage;
- (3) health benefit coverage, including coverage for:
 - (A) hospital care and benefits;
 - (B) surgical care and treatment;
 - (C) medical care and treatment;
 - (D) dental care;
 - (E) obstetrical benefits;
 - (F) prescribed drugs, medicines, and prosthetic

devices; and

(G) supplemental benefits, supplies, and services in accordance with this chapter;

(4) coverage providing protection against either long-term or short-term loss of salary; and

(5) any other group coverage that the board of trustees, in consultation with the group benefits advisory committee created under Subchapter J, considers advisable.

(c) The group coverage plans for annuitants may, at the discretion of the board of trustees, be separate or a part of the group coverage plans for employees. If the trustee establishes separate group coverage plans for annuitants, the separate group coverage plans must include both full benefits and supplemental coverage options. (V.T.I.C. Art. 3.50-2, Secs. 3(a)(13) (part), 5(a) (part).)

Source Law

[Sec. 3(a)]

(13) ["Retired employees plan" shall mean] This plan may be separate or a part of the active employee plan at the discretion of the trustee, and, if separate, shall include both full benefits and supplemental coverage options.

Sec. 5. (a) The trustee is authorized, empowered, and directed to establish plans of group coverages for active employees and retired employees which in the trustee's discretion may include but are not necessarily limited to the following: group

life coverages, accidental death and dismemberment, health benefits plans, including but not limited to hospital care and benefits, surgical care and treatment, medical care and treatment, dental care, obstetrical benefits, prescribed drugs, medicines, and prosthetic devices and supplemental benefits, supplies, and services in conformity with the provisions of this Act, protection against either long or short term loss of salary and any other group coverages which in the discretion of the trustee with consultation from the advisory committee shall be deemed advisable. All rules and regulations shall be promulgated pursuant thereto. The trustee shall determine the coverages desired for state employees and other eligible participants. . . .

Revisor's Note

(1) Section 5(a), V.T.I.C. Article 3.50-2, refers to coverages that "may include but are not necessarily limited to" certain coverages and benefits plans "including but not limited to" certain benefits. "[B]ut are not necessarily limited to" and "but not limited to" are omitted from the revised law for the reason stated in the revisor's note to Section 1551.052.

(2) Section 5(a), V.T.I.C. Article 3.50-2, refers to the "advisory committee." The revised law substitutes "group benefits advisory committee created under Subchapter J" for clarity.

Revised Law

Sec. 1551.202. AUTHORITY TO DEFINE BASIC COVERAGES. (a) The board of trustees may define the basic coverage applicable to each individual for whom coverage is automatic unless participation is specifically waived.

(b) The board of trustees may define different basic coverage plans for individuals eligible to participate in the uniform program under Section 1551.101 and for individuals eligible to participate in the group benefits program under Section 1551.102.

(c) Basic coverage must include basic health coverage. The coverage may be offered through any health benefit plan.

(V.T.I.C. Art. 3.50-2, Sec. 5A(a).)

Source Law

Sec. 5A. (a) The trustee may define the basic coverage in which every full-time employee and every annuitant participates unless participation is specifically waived. The trustee may define different basic coverage plans for active full-time employees and for annuitants. Basic coverage must include basic health coverage. Basic health coverage may be offered through any health benefits plan.

Revised Law

Sec. 1551.203. AUTHORITY TO DEFINE OPTIONAL COVERAGES. The board of trustees may define optional coverages for which the board may make available employer contributions under Section 1551.303. (V.T.I.C. Art. 3.50-2, Sec. 5A(b).)

Source Law

(b) The trustee may define optional coverages for which the trustee may make available employer contributions under Section 14 of this Act.

Revised Law

Sec. 1551.204. AUTHORITY TO DEFINE VOLUNTARY COVERAGES. Subject to Section 1551.304, the board of trustees may define voluntary coverages. (V.T.I.C. Art. 3.50-2, Sec. 5A(c) (part).)

Source Law

(c) The trustee may define voluntary coverages [for which the employee or annuitant is responsible for the full cost.]

Revised Law

Sec. 1551.205. LIMITATIONS. The board of trustees may not contract for or provide a coverage plan that:

- (1) excludes or limits coverage or services for acquired immune deficiency syndrome, as defined by the Centers for Disease Control and Prevention of the United States Public Health Service, or human immunodeficiency virus infection; or
- (2) provides coverage for serious mental illness that is less extensive than the coverage provided for any physical illness. (V.T.I.C. Art. 3.50-2, Sec. 5(j).)

Source Law

(j) The trustee may not contract for or

provide a plan of coverage that:

(1) excludes or limits coverage or services for acquired immune deficiency syndrome, as defined by the Centers for Disease Control of the United States Public Health Service, or human immunodeficiency virus infection; or

(2) provides coverage for serious mental illness that is less extensive than the coverage provided for any physical illness.

Revisor's Note

Section 5(j), V.T.I.C. Article 3.50-2, refers to the "Centers for Disease Control of the United States Public Health Service." The revised law substitutes the current name for these centers, "Centers for Disease Control and Prevention of the United States Public Health Service."

Revised Law

Sec. 1551.206. CAFETERIA PLAN. (a) The board of trustees may develop, implement, and administer a cafeteria plan if the board determines that establishment of the plan:

(1) is feasible;

(2) would be beneficial to the state and to employees who would be eligible to participate in the plan; and

(3) would not adversely affect the coverage plans provided under the group benefits program.

(b) The board of trustees may include in the cafeteria plan any benefit that may be included in a cafeteria plan under federal law.

(c) The board of trustees may enter into a contract or agreement with an independent and qualified agency, individual, or entity to:

(1) develop, implement, or administer a cafeteria plan; or

(2) assist in those activities.

(d) The board of trustees may adopt an order terminating the cafeteria plan and providing a procedure for the orderly withdrawal of the state and its employees from the plan if the board determines that a cafeteria plan established under this section is no longer advantageous to the state or its employees. (V.T.I.C. Art. 3.50-2, Secs. 4(k), 13B(a), (b), (c).)

Source Law

Sec. 4. . . . [The trustee shall have full power and authority to promulgate all

rules . . . necessary to implement and carry out the purposes and provisions of this Act . . . , including but not limited to the following:]

. . .

(k) design, development, adoption, implementation, and administration of a cafeteria plan;

. . .

Sec. 13B. (a) The trustee may study the feasibility of establishing a cafeteria plan and may design, develop, adopt, implement, and administer a cafeteria plan if the trustee determines that the establishment of a cafeteria plan is feasible, would be beneficial to the state and to the employees who would be eligible to participate in the cafeteria plan, and would not adversely affect the insurance program established under this Act. The trustee may include in the cafeteria plan any benefit that may be included in a cafeteria plan under federal law.

(b) In addition to other authority granted to the trustee by this Act, the trustee may enter into contracts and agreements with one or more independent and qualified agencies, persons, or entities to design, develop, adopt, implement, or administer or to assist in the design, development, adoption, implementation, or administration of a cafeteria plan.

(c) If the trustee determines that a cafeteria plan adopted under this section is no longer advantageous to the state or state employees, the trustee may adopt an order terminating the cafeteria plan and providing a procedure for the orderly withdrawal of the state and its employees from that plan.

Revisor's Note

(1) Sections 4(k) and 13B, V.T.I.C. Article 3.50-2, refer to the "design" and "development" of a cafeteria plan. The references to "design" are omitted from the revised law because, in context, "design" is included within the meaning of "development."

(2) Sections 4(k) and 13B, V.T.I.C. Article 3.50-2, refer to the "adoption" and "implementation" of a cafeteria plan. The references to "adoption" are omitted from the revised law because, in context, "adoption" is included within the meaning of "implementation."

(3) Section 13B(a), V.T.I.C. Article 3.50-2, authorizes the board of trustees to "study the feasibility of establishing a cafeteria plan." The board of trustees has established a cafeteria plan and the revised law omits that provision as executed.

Revised Law

Sec. 1551.207. PREMIUM CONVERSION BENEFIT PORTION OF CAFETERIA PLAN. Each employee must be enrolled in the premium conversion benefit portion of a cafeteria plan established under Section 1551.206. (V.T.I.C. Art. 3.50-2, Sec. 13B(d) (part).)

Source Law

(d) Each employee shall be enrolled in the premium conversion benefit portion of the cafeteria plan. . . .

Revised Law

Sec. 1551.208. DETERMINATION TO SELF-FUND. (a) The board of trustees, in the board's sole discretion, shall determine those coverage plans that the board does not intend to purchase but intends to provide directly from the employees life, accident, and health insurance and benefits fund.

(b) The board of trustees, in the board's sole discretion and under conditions the board approves, may reinsure any coverage the board determines will be provided directly from the employees life, accident, and health insurance and benefits fund under Subsection (a). (V.T.I.C. Art. 3.50-2, Secs. 5(f) (part), 8.)

Source Law

[Sec. 5]

(f) The trustee, in its sole discretion and in accordance with the requirements of this section, shall determine those plans of coverages for which the trustee does not intend to purchase insurance and which it intends to provide directly from the Employees Life, Accident, and Health Insurance and Benefits Fund. . . .

Sec. 8. The trustee, in its sole discretion and under conditions it approves, may reinsure any coverage that it has determined will be provided directly from the fund in accordance with Section 5(f) of this Act.

Revised Law

Sec. 1551.209. SELF-FUNDED COVERAGE EXEMPT FROM INSURANCE LAW. A coverage plan for which the board of trustees does not purchase coverage but provides under this chapter on a self-funded basis is exempt from any other insurance law that does not expressly apply to the plan or this chapter. (V.T.I.C. Art. 3.50-2, Sec. 5(f) (part).)

Source Law

(f) . . . Any plan of coverages for which the trustee does not purchase insurance but provides under this Act on a self-funded basis is exempt from any other insurance law unless the law expressly applies to this plan or this Act. . . .

Revised Law

Sec. 1551.210. ACTUARIAL ADVICE FOR SELF-FUNDED COVERAGE. A qualified actuary selected by the board of trustees shall advise the board regarding an actuarially sound level of contributions required to provide coverage directly from the employees life, accident, and health insurance and benefits fund. (V.T.I.C. Art. 3.50-2, Sec. 5(f) (part).)

Source Law

(f) . . . A qualified actuary selected by the trustee shall advise the trustee as to an actuarially sound level of contributions required to provide coverages directly from the fund.

Revised Law

Sec. 1551.211. CONTINGENCY RESERVE FUND FOR SELF-FUNDED COVERAGE. (a) Before the first day of each state fiscal biennium, the board of trustees shall estimate for an average 60-day period during the biennium the expenditures from the employees life, accident, and health insurance and benefits fund anticipated for self-funded coverage plans, considering projected claims and administrative expenses for those plans.

(b) The board of trustees shall place the estimated amount in a contingency reserve fund to provide for adverse fluctuations

in claims or administrative expenses.

(c) The board of trustees shall include in each request for legislative appropriations to the group benefits program the amount the board determines to be necessary to maintain the contingency reserve fund at the level required by this section.

(d) The board of trustees may invest and reinvest any portion of the contingency reserve fund under the standard of care provided by Section 815.307, Government Code, considering the functional need to provide for adverse fluctuations in claims or administrative expenses.

(e) The interest on, earnings of, and proceeds from the sale of investments of assets in the contingency reserve fund shall be credited to the fund. (V.T.I.C. Art. 3.50-2, Sec. 5(e).)

Source Law

(e) Before the first day of each state fiscal biennium, the trustee shall estimate for an average 60-day period during the biennium the expenditures from the fund anticipated for self-funded plans, considering claims and administrative expenses for those plans that are projected to be incurred. The trustee shall place the estimated amount in a contingency reserve fund to provide for adverse fluctuations in claims or administrative expenses. The trustee shall include in each request for legislative appropriations to the program the amount the trustee determines to be necessary to maintain the contingency reserve fund at the level required by this subsection. The trustee may invest and reinvest any portion of the contingency reserve fund under the standard of care provided by Section 815.307, Government Code, considering the functional need to provide for adverse fluctuations in claims or administrative expenses. The interest on, earnings of, and proceeds from the sale of investments of assets in the contingency reserve fund shall be credited to the fund.

Revised Law

Sec. 1551.212. FIRMS TO ADMINISTER SELF-FUNDED COVERAGE.

(a) For those coverage plans that the board of trustees funds from the employees life, accident, and health insurance and benefits fund, the board may contract with one or more qualified

and experienced administering firms to administer the plans in the best interest of the participants in the group benefits program.

(b) The contract may be awarded only after a competitive bid process. The board of trustees is not required to select the lowest bid but shall take into consideration other relevant criteria, including ability to service large group programs and past experience.

(c) If the board of trustees selects a firm whose bid was not the lowest or whose bid differs from that specified, the board shall fully justify and explain the reasons for the action in the minutes of the next meeting of the board. (V.T.I.C. Art. 3.50-2, Secs. 5(h), (i).)

Source Law

(h) In the event the trustee determines that benefits shall be provided from the Employees Life, Accident, and Health Insurance and Benefits Fund, the trustee may contract with one or more qualified and experienced administering firms on a competitive bid basis to administer the plans of coverage provided in Section 5 of the Act.

(i) The trustee shall select one or more administering firms to provide services which shall be in the best interests of the employees covered by the Act. The trustee is not required to select the lowest bid but shall take into consideration such other factors as ability to service large group programs, past experience, and other relevant criteria. Should the trustee select a firm whose bid was not the lowest or one whose bid differs from that specified, the reasons for such action shall be fully justified and explained in the minutes of the next meeting of the trustee.

Revised Law

Sec. 1551.213. BIDS FOR PURCHASED COVERAGE. (a) For those coverage plans for which the board of trustees determines to purchase coverage, the board shall notify eligible carriers:

- (1) that competitive bidding will be conducted; and
- (2) of the date by which an eligible carrier must submit a bid on the contract to the board.

(b) The board of trustees shall submit the group coverages provided by the group benefits program for competitive bidding at least every six years. (V.T.I.C. Art. 3.50-2, Sec. 5(a) (part).)

Source Law

(a) . . . The trustee will notify eligible carriers that competitive bidding will be conducted and that they are to submit their bids to the trustee by a specified date if they wish to bid on the contract. . . . The trustee shall submit the coverages provided by the group plan for competitive bidding at least every six years.

Revised Law

Sec. 1551.214. SELECTION OF BIDS FOR PURCHASED COVERAGE.

(a) An actuary selected by the board of trustees shall advise the board as to the actuarial soundness of the bids received under Section 1551.213.

(b) The board of trustees:

(1) shall select carriers to provide services that will be in the best interest of participants; and

(2) is not required to select the lowest bid but shall take into consideration other relevant criteria, including ability to service contracts, past experience, and financial ability.

(c) If the board of trustees selects a carrier whose bid differs from that advertised, the board shall record the deviation and shall fully justify and explain the reasons for the deviation in the minutes of the next meeting of the board.

(d) The board of trustees shall notify the carriers that submitted bids of the results of the bidding. (V.T.I.C.

Art. 3.50-2, Sec. 5(a) (part).)

Source Law

(a) . . . An actuary selected by the trustee shall advise the trustee as to the actuarial soundness of the bids received. The trustee shall select the desired carrier or carriers and will notify the bidding eligible carriers as to the results of the bidding. The trustee shall select the desired carrier or carriers to provide services that will be in the best interest of the employees covered by this Act. The trustee is not required to select the lowest bid but shall take into consideration other factors such as ability to service contracts, past experience, financial ability, and other relevant criteria. Should the trustee select a carrier whose bid differs from that

advertised, such deviation shall be recorded and the reasons for such deviation shall be fully justified and explained in the minutes of the next meeting of the trustee. . . .

Revised Law

Sec. 1551.215. ACCOUNTING BY CARRIER PROVIDING PURCHASED COVERAGE. (a) A carrier providing a coverage purchased under this chapter shall provide an accounting to the board of trustees not later than the 90th day after the end of each plan year.

(b) The accounting must be in a form approved by the board of trustees.

(c) The accounting must state for the period from the coverage's date of issue to the end of the plan year:

(1) the amounts of contributions accrued under the coverage;

(2) the total of mortality and other claims, charges, losses, and expenses incurred; and

(3) the amounts of the carrier's allowance for a reasonable profit and contingencies. (V.T.I.C. Art. 3.50-2, Sec. 9(a).)

Source Law

Sec. 9. (a) A carrier providing any policy purchased under this Act shall provide an accounting to the trustee not later than 90 days after the end of each policy year. The accounting shall set forth, in a form approved by the trustee:

(1) the amounts of premiums actually accrued under the policy from its date of issue to the end of the policy year;

(2) the total of all mortality and other claims, charges, losses, costs, and expenses incurred for that period; and

(3) the amounts of the carrier's allowance for a reasonable profit and contingencies for that period.

Revised Law

Sec. 1551.216. SPECIAL CONTINGENCY RESERVE. (a) A carrier issuing a group coverage plan under this chapter shall hold as a special contingency reserve an amount that equals the amount by which the amount described by Section 1551.215(c)(1) exceeds the sum of the amounts described by Sections 1551.215(c)(2) and (3).

(b) The carrier may use the special contingency reserve only for charges, claims, and expenses under the plan.

(c) The special contingency reserve earns interest at a

rate determined before each plan year by the carrier and approved by the board of trustees as consistent with the rates generally used by the carrier for similar funds held under other group coverage plans.

(d) On a determination by the board of trustees that the special contingency reserve has attained an amount estimated by the board to make satisfactory provision for adverse fluctuations in future charges, claims, or expenses under the plan, any further excess shall be deposited to the credit of the employees life, accident, and health insurance and benefits fund.

(e) On discontinuation of a plan, any balance remaining in the special contingency reserve after all charges have been made shall be deposited to the credit of the employees life, accident, and health insurance and benefits fund. The carrier may make the deposit in equal monthly installments over a period of not more than two years. (V.T.I.C. Art. 3.50-2, Sec. 9(b).)

Source Law

(b) An excess of the total of Subdivision (a)(1) of this section over the sum of Subdivisions (a)(2) and (a)(3) of this section shall be held by the carrier issuing a participating policy as a special contingency reserve to be used by the carrier only for charges, claims, costs, and expenses under the policy. The reserve shall bear interest at a rate determined in advance of each policy year by the carrier and approved by the trustee as being consistent with the rates generally used by the carrier for similar funds held under other group insurance policies. When the trustee determines that the special contingency reserve has attained an amount estimated by it to make satisfactory provision for adverse fluctuations in future charges, claims, costs, or expenses under the policy, any further excess shall be deposited in the State Treasury to the credit of the Employees Life, Accident, and Health Insurance and Benefits Fund. When a policy is discontinued, any balance remaining in the special contingency reserve after all charges have been made shall be deposited in the State Treasury to the credit of the fund. The carrier may make the deposit in equal monthly installments over a period of not more than two years.

Revised Law

Sec. 1551.217. USE OF EMPLOYEE'S SALARY IN COMPUTATION OF PREMIUM OR COVERAGE. (a) If the board of trustees establishes a group coverage plan that protects against either long-term or short-term loss of salary, the board may use an employee's annual salary in computing the amount of the employee's premium or coverage, or both, under the plan.

(b) In this section, an employee's annual salary includes benefit replacement pay under Subchapter H, Chapter 659, Government Code, as added by Chapter 417, Acts of the 74th Legislature, Regular Session, 1995. (V.T.I.C. Art. 3.50-2, Sec. 5(k).)

Source Law

(k) If the trustee establishes a group coverage plan that protects against the long-term or short-term loss of salary, the trustee may use an employee's annual salary in the calculation of the amount of the employee's premium or coverage, or both, under the plan. For purposes of this subsection, an employee's annual salary includes the benefit replacement pay the employee would be earning annually under Subchapter H, Chapter 659, Government Code, as added by Chapter 417, Acts of the 74th Legislature, 1995, if Section 659.121(1), Government Code, defined "compensation" to include only base salary or wages, longevity pay, hazardous duty pay, and night differential pay.

Revisor's Note

Section 5(k), V.T.I.C. Article 3.50-2, provides that an employee's annual salary includes benefit replacement pay "if Section 659.121(1), Government Code, defined 'compensation' to include only base salary or wages, longevity pay, hazardous duty pay, and night differential pay." The clear intent of the source law is to include benefit replacement pay in an employee's annual salary, for purposes of this section, whatever the definition of "compensation" in Section 659.121(1), Government Code, includes, and the revised law reflects this intent.

[Sections 1551.218-1551.250 reserved for expansion]

SUBCHAPTER F. GROUP LIFE AND ACCIDENTAL DEATH AND
DISMEMBERMENT INSURANCE COVERAGE PLAN

Revised Law

Sec. 1551.251. GROUP LIFE INSURANCE COVERAGE PLAN. (a) The board of trustees shall administer a group life insurance coverage plan to provide each individual eligible to participate in the group benefits program under Section 1551.101 or 1551.102 group life coverages that provide payments and benefits in an amount and manner the board determines.

(b) The group life insurance coverage plan is subject to the conditions and limitations of:

(1) this chapter and rules adopted under this chapter;
and

(2) the policy or policies purchased by the board of trustees.

(c) The board of trustees may include the dependents of individuals eligible to participate in the group benefits program under Section 1551.101 or 1551.102 in the group life insurance coverage plan. (V.T.I.C. Art. 3.50-2, Sec. 11(a).)

Source Law

Sec. 11. (a) The trustee is authorized and directed to establish a group life program for all employees, including retired employees, of this state as herein provided, which, subject to the conditions and limitations contained in this Act and the trustee's rules and regulations promulgated pursuant thereto, will provide for each employee group life coverages in such an amount as shall be determined by the trustee. In addition to the benefits hereinabove provided and subject to the conditions and limitations of the policy or policies purchased by the trustee, such policy or policies shall provide such payments and benefits for employees and retired employees as shall be determined by the trustee. The trustee is also authorized to include the dependents of employees in the life program.

Revised Law

Sec. 1551.252. ADDITIONAL TERM LIFE INSURANCE. Notwithstanding any other provision of this code, the board of trustees may authorize:

(1) dependent term life insurance in an amount equal to the term life insurance provided under the basic coverage; and

(2) optional term life insurance in an amount equal to

four times the employee's annual salary plus the amount of term life insurance provided under the basic coverage. (V.T.I.C. Art. 3.50-2, Sec. 11(b).)

Source Law

(b) Notwithstanding any other provisions of this code, the trustee may authorize dependent term life insurance in an amount equal to the term life insurance provided under the basic coverage and may authorize optional term life insurance equal to four times the employee's annual salary plus the amount of term life insurance provided under the basic coverage.

Revised Law

Sec. 1551.253. DETERMINATION OF ANNUAL SALARY. (a) To implement this subchapter, the board of trustees shall:

(1) adopt rules for the conversion of other than annual rates of salary; and

(2) specify the types of pay included in annual salary and any other matter necessary to implement this subchapter.

(b) For the purpose of determining the amount of an employee's optional term life insurance coverage, an employee's annual salary includes benefit replacement pay under Subchapter H, Chapter 659, Government Code, as added by Chapter 417, Acts of the 74th Legislature, Regular Session, 1995. (V.T.I.C. Art. 3.50-2, Secs. 11(c), 11(d), as added Acts 75th Leg., R.S., Ch. 1035.)

Source Law

(c) Except as provided by Subsection (d), the trustee shall prescribe regulations providing for the conversion of other than annual rates of pay, and specify the types of pay included in annual pay and all other matters necessary to implement this section.

(d) [as added Acts 75th Leg., R.S., Ch. 1035] For the purpose of determining the amount of an employee's optional term life insurance coverage, an employee's annual salary includes the benefit replacement pay the employee would be earning annually under Subchapter H, Chapter 659, Government Code, as added by Chapter 417, Acts of the 74th Legislature, 1995, if Section 659.121(1), Government Code, defined "compensation" to include only base salary or wages, longevity

pay, hazardous duty pay, and night differential pay.

Revisor's Note

Section 11(d), V.T.I.C. Article 3.50-2, as added by Chapter 1035, Acts of the 75th Legislature, Regular Session, 1997, provides that an employee's annual salary includes benefit replacement pay "if Section 659.121(1), Government Code, defined 'compensation' to include only base salary or wages, longevity pay, hazardous duty pay, and night differential pay." The revised law omits the quoted language for the reason stated in the revisor's note to Section 1551.217.

Revised Law

Sec. 1551.254. ACCELERATED LIFE INSURANCE BENEFITS. (a) In addition to exercising the authority granted under Subchapter B, Chapter 1111, the board of trustees may adopt rules to provide for payment of accelerated life insurance benefits to a terminally ill, terminally injured, or permanently disabled participant, including an annuitant participating in optional term life insurance coverage, in amounts that benefit the participant without increasing the cost of providing the benefits.

(b) The amount of any payment of an accelerated benefit under a rule adopted under this section must be deducted from the amount that would otherwise be payable as a death benefit.

(V.T.I.C. Art. 3.50-2, Sec. 11(d), as added Acts 75th Leg., R.S., Ch. 1048; Sec. 11(e)(3) (part).)

Source Law

(d) [as added Acts 75th Leg., R.S., Ch. 1048] In addition to the authority granted under Article 3.50-6, Insurance Code, the trustee may adopt rules to provide for payment of accelerated life insurance benefits to a terminally ill, terminally injured, or permanently disabled participant in amounts that benefit the participants without increasing the cost of providing the benefits. The amount of any payment of an accelerated benefit under rules adopted under this subsection must be deducted from the amount that would otherwise be payable as a death benefit.

[(e)]

(3) . . . An annuitant participating in optional term life insurance coverage is eligible for accelerated life insurance benefits as provided by rules adopted under the authority of Subsection (d) of this section, as added by Chapter 1048, Acts of the 75th Legislature, Regular Session, 1997.

Revised Law

Sec. 1551.255. INCLUSION OF PROVISIONS FOR VIATICAL SETTLEMENTS. (a) In this section, "viatical settlement" has the meaning assigned by Section 1111.001.

(b) The board of trustees shall adopt rules that require a group life insurance coverage plan established under this chapter to allow a participant in the plan to make, in conjunction with receipt of a viatical settlement, an irrevocable designation of beneficiary for part or all of the group life coverage benefits.

(c) A viatical settlement is not valid for any coverage under the group benefits program unless the participant has a terminal illness or terminal injury, as defined by rules adopted by the board of trustees, at the time application for benefits is made. (V.T.I.C. Art. 3.50-2, Sec. 11A.)

Source Law

Sec. 11A. The trustee shall adopt rules requiring a group life insurance program provided to employees, including annuitants or dependents, to include a provision allowing the employee, annuitant, or dependent to make, in conjunction with receipt of a viatical settlement, an irrevocable designation of beneficiary for part or all of the group life coverage benefits. A viatical settlement is not valid for any coverage under the Texas Employees Uniform Group Insurance Program unless the employee, annuitant, or dependent has a terminal illness or terminal injury, as defined by rules adopted by the trustee, at the time application for benefits is made. In this section, "viatical settlement" has the meaning assigned by Article 3.50-6A, Insurance Code.

Revised Law

Sec. 1551.256. OPTIONAL TERM LIFE INSURANCE COVERAGE AFTER RETIREMENT. (a) A participant in the optional group term life

insurance coverage plan may maintain optional term life insurance coverage after retirement in addition to basic term life insurance coverage after retirement.

(b) The board of trustees may adopt rules to implement and administer Subsection (a).

(c) Under Subsection (a), the participant may maintain an amount of optional term life insurance coverage on the participant's life on the date of retirement, not to exceed two times the participant's annual salary on the last September 1 before retirement and subject to benefit reduction factors based on age as determined by the board of trustees.

(d) The board of trustees shall determine the premium rate for optional term life insurance coverage for annuitants under Subsection (a). The rate must be comparable to the premium rate for optional term life insurance coverage for employees of the same age.

(e) As an alternative to the optional term life insurance coverage plan, an annuitant may choose a minimum optional term life insurance coverage amount not subject to benefit reduction factors based on age, with a coverage amount and premium rate determined by the board of trustees. (V.T.I.C. Art. 3.50-2, Secs. 11(e)(1), (2).)

Source Law

(e)(1) In addition to retiree basic term life insurance coverage, a participant in the optional group term life insurance program may maintain optional term life insurance coverage after retirement. The trustee may adopt rules for the implementation and administration of this subsection.

(2) A participant may maintain after retirement the amount of optional term life insurance coverage on the participant's life on the date of retirement, not to exceed two times the participant's annual salary on the last September 1 before retirement and subject to benefit reduction factors based on age as determined by the trustee. The trustee shall determine the rate for retiree optional term life insurance coverage. The rate must be comparable to the rate for optional term life insurance coverage for an active employee of the same age. Alternatively, a retiree may choose another minimum optional term life insurance coverage amount not subject to benefit reduction

factors based on age, with a coverage amount and premium rate determined by the trustee.

Revised Law

Sec. 1551.257. ELIGIBILITY OF ANNUITANT FOR EXTENDED INSURANCE BENEFITS. An annuitant participating in optional term life insurance coverage is not eligible for premium-waived extended insurance benefits if the total disability begins after the date of retirement. (V.T.I.C. Art. 3.50-2, Sec. 11(e)(3) (part).)

Source Law

(3) An annuitant participating in optional term life insurance coverage is not eligible for premium-waived extended insurance benefits if the total disability begins after the date of retirement. . . .

Revised Law

Sec. 1551.258. TERMINATION OF ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE COVERAGE ON RETIREMENT. Without regard to the employee's age, accidental death and dismemberment insurance coverage ends on the employee's date of retirement. (V.T.I.C. Art. 3.50-2, Sec. 11(e)(3) (part).)

Source Law

(3) . . . Accidental death and dismemberment insurance coverage ceases on the date of retirement, regardless of age. . . .

Revised Law

Sec. 1551.259. ORDER OF PRECEDENCE OF PAYMENT TO SURVIVORS. (a) The amount of group life coverage and group accidental death and dismemberment coverage in force for a participant on the date the participant dies shall be paid, on the establishment of a valid claim, to a person surviving the death in the following order of precedence:

- (1) to the beneficiary designated by the participant in a signed and witnessed writing received before death by the employing state agency;
- (2) if a beneficiary is not designated, to the spouse of the participant;
- (3) if Subdivisions (1) and (2) do not apply, to the children of the participant and descendants of the deceased children by representation;
- (4) if Subdivisions (1)-(3) do not apply, to the parents of the participant or the survivor of the parents;

(5) if Subdivisions (1)-(4) do not apply, to the executor or administrator of the estate of the participant; or

(6) if Subdivisions (1)-(5) do not apply, to other relatives of the participant entitled under applicable laws of the participant's domicile on the date of the participant's death.

(b) If before the first anniversary of the date of death of the participant a claim for payment has not been filed by a person entitled under the order of precedence in Subsection (a), or if payment to the person within that period is prohibited by any statute or rule, payment may be made in the order of precedence as if the person had predeceased the participant.

(c) If before the second anniversary of the date of death of the participant a claim for payment has not been filed by a person entitled under the order of precedence in Subsection (a), and neither the board of trustees nor the office established by the administering carrier has received notice that the claim will be made, payment may be to a claimant equitably entitled to the payment as determined by the board.

(d) If before the fourth anniversary of the date of death of the participant payment has not been made under this section and a claim for payment by a person entitled under this section is not pending, the amount payable escheats to the credit of the employees life, accident, and health insurance and benefits fund.

(e) The board of trustees shall give effect to a full or partial disclaimer of benefits executed in accordance with Section 37A, Texas Probate Code.

(f) Payment under Subsection (b) or (c) bars recovery by any other person.

(g) For purposes of Subsection (a)(1), a designation, change, or cancellation of a beneficiary in a document, including a will, that is not executed and filed in the manner described by that subsection is not valid. (V.T.I.C. Art. 3.50-2, Sec. 12.)

Source Law

Sec. 12. (a) The amount of group life coverages and group accidental death and dismemberment coverages in force on an employee at the date of his death shall be paid, on the establishment of a valid claim, to the person or persons surviving at the date of his death, in the following order of precedence:

First, to the beneficiary or beneficiaries designated by the employee in a signed and witnessed writing received before death in the employing office. For this purpose, a designation, change, or

cancellation of beneficiary in a will or other document not so executed and filed has no force or effect.

Second, if there is no designated beneficiary, to the widow or widower of the employee.

Third, if none of the above, to the child or children of the employee and descendants of the deceased children by representation.

Fourth, if none of the above, to the parents of the employee or the survivor of them.

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of the employee.

Sixth, if none of the above, to other kin of the employee entitled under the laws of the domicile of the employee at the date of his death.

(b) If, within one year after the death of the employee, no claim for payment has been filed by a person entitled under the order of precedence named by Subsection (a) of this section, or if payment to the person within that period is prohibited by any statute or regulation, payment may be made in the order of precedence as if the person had predeceased the employee, and the payment bars recovery by any other person.

(c) If, within two years after the death of the employee, no claim for payment has been filed by a person entitled under the order of precedence named in Subsection (a) of this section, and neither the trustee nor the office established by the administering carrier has received notice that such a claim will be made, payment may be to the claimant who in the judgment of the trustee is equitably entitled thereto, and the payment bars recovery by any other person.

(d) If, within four years after the death of the employee, payment has not been made under this section and no claim for payment by a person entitled under this section is pending, the amount payable escheats to the credit of the fund.

(e) The trustee shall give effect to a

full or partial disclaimer of benefits
executed in accordance with Section 37A,
Texas Probate Code.

Revisor's Note

Section 12(a), V.T.I.C. Article 3.50-2,
refers to a "duly appointed executor or
administrator" of an estate. The revised law
omits "duly" because it does not add to the
clear meaning of the law. An individual who
is not properly appointed as the executor or
administrator of an estate is not the
executor or administrator of the estate.

[Sections 1551.260-1551.300 reserved for expansion]

SUBCHAPTER G. CONTRIBUTIONS AND COSTS

Revised Law

Sec. 1551.301. FUNDING OF BASIC COVERAGE. The board of
trustees shall use the amount appropriated for employer
contributions in the manner provided by this subchapter to fund
the basic coverage. (V.T.I.C. Art. 3.50-2, Sec. 14(a) (part).)

Source Law

Sec. 14. (a) The trustee shall use the
amount appropriated for employer
contributions in accordance with Section 15
of this Act to fund the basic coverage. . . .

Revised Law

Sec. 1551.302. ALLOCATION OF EMPLOYER CONTRIBUTIONS. (a)
The board of trustees may equitably allocate to each health
benefit plan the employer contributions that would be required to
fund basic health coverage for participants in the plans to the
extent funds are available.

(b) In allocating the employer contributions among plans,
the board of trustees shall consider the relevant risk
characteristics of each plan's enrollment, including:

(1) demographic variations in the use and cost of
health care; and

(2) prevailing cost patterns in the area in which the
plan operates.

(c) The allocation must be reasonable and set in a manner
that ensures participants a fair choice among health benefit
plans providing a basic plan.

(d) The contribution set for each participant must be
within the total amount appropriated in the General
Appropriations Act. (V.T.I.C. Art. 3.50-2, Sec. 14(a) (part).)

Source Law

(a) . . . The trustee may equitably allocate to each health benefits plan the employer contributions that would be required to fund basic health coverage for participants in the plans to the extent funds are available. In allocating the employer contributions among plans, the trustee shall consider the relevant risk characteristics of each plan's enrollment, including demographic variations in the use and cost of health care and the prevailing cost patterns in the area in which the plan operates. The allocation must be reasonable and set in a manner which assures employees a fair choice among health benefit plans providing a basic plan. The contribution set for each employee shall be within the total amount appropriated in the General Appropriations Act.

Revised Law

Sec. 1551.303. FUNDING OF OPTIONAL COVERAGES. The board of trustees may allocate any employer contributions remaining after the basic coverage has been funded to fund optional coverages in any manner the board determines is appropriate. (V.T.I.C. Art. 3.50-2, Sec. 14(b).)

Source Law

(b) Any employer contributions remaining after the basic coverage has been funded may be allocated by the trustee to fund optional coverages in any manner the trustee determines is appropriate.

Revised Law

Sec. 1551.304. FUNDING OF VOLUNTARY COVERAGES. The board of trustees may not allocate any employer contributions to fund voluntary coverages. Voluntary coverages may be funded only by participant contributions. (V.T.I.C. Art. 3.50-2, Secs. 5A(c) (part), 14(c).)

Source Law

[Sec. 5A]

(c) [The trustee may define voluntary coverages] for which the employee or annuitant is responsible for the full cost.

[Sec. 14]

(c) The trustee may not allocate any employer contributions to fund voluntary coverages. Voluntary coverages must be funded solely by employee contributions.

Revised Law

Sec. 1551.305. COST OF BASIC COVERAGE EXCEEDING EMPLOYER CONTRIBUTIONS. If the cost of the basic coverage for an individual eligible to participate in the group benefits program under Section 1551.101 or 1551.102 exceeds the amount of employer contributions allocated to fund the basic coverage, the state shall deduct from or reduce the monthly compensation of the participant or deduct from the retirement benefits of the participant, as applicable, an amount sufficient to pay the cost of the basic coverage. (V.T.I.C. Art. 3.50-2, Sec. 14(d).)

Source Law

(d) If the cost of the basic coverage for a state employee or annuitant exceeds the amount of employer contributions allocated to fund the basic coverage, the state shall deduct from or reduce the monthly compensation of the state employee and shall deduct from the retirement benefits of the annuitant an amount sufficient to pay the cost of the basic coverage.

Revised Law

Sec. 1551.306. PAYMENT OF EXCESS COST OVER BASIC COVERAGE CONTRIBUTION. (a) The board of trustees shall apply the amount of any employer contribution for optional coverages to the excess of the cost of the basic and optional coverages for which an individual eligible to participate in the group benefits program under Section 1551.101 or 1551.102 applies over the basic coverage contribution.

(b) Except as provided by Section 1551.309, if a participant applies for basic and optional coverages for which the cost exceeds the employer contributions for those coverages under this chapter, the participant shall authorize in a form and manner satisfactory to the board of trustees a deduction from the participant's monthly compensation or monthly annuity equal to the difference between:

(1) the cost of basic and optional coverages for which the participant applies; and

(2) the employer contributions for basic and optional coverages. (V.T.I.C. Art. 3.50-2, Sec. 14(e).)

Source Law

(e) The trustee shall apply the amount of any employer contribution allocated to fund optional coverages to the excess of the cost of the basic and optional coverages for which the employee or annuitant has applied over the basic coverage contribution. Except as provided by Subsection (h) of this section, if an employee or annuitant applies for basic and optional coverages for which the cost exceeds the contributions for those coverages under this Act, the employee or annuitant shall authorize in a form and manner satisfactory to the trustee a deduction from the employee's or annuitant's monthly compensation or annuity equal to the difference between the cost of basic and optional coverages for which the employee or annuitant has applied and the employer contributions for basic and optional coverage.

Revised Law

Sec. 1551.307. PAYMENT FOR VOLUNTARY COVERAGES. Except as provided by Section 1551.309, if an individual eligible to participate in the group benefits program under Section 1551.101 or 1551.102 applies for voluntary coverages, the participant shall authorize in a form and manner satisfactory to the board of trustees a deduction from the participant's monthly compensation or monthly annuity equal to the cost of the voluntary coverages. (V.T.I.C. Art. 3.50-2, Sec. 14(f).)

Source Law

(f) Except as provided by Subsection (h) of this section, if an employee or annuitant applies for voluntary coverages, the employee shall authorize in a form and manner satisfactory to the trustee a deduction from the employee's monthly compensation or annuity equal to the cost of the voluntary coverages.

Revised Law

Sec. 1551.308. NO CONTRIBUTION ON REFUSAL OF COVERAGE. The state and a state agency may not make any contribution to the cost of any coverages or benefits provided under this chapter for an individual who refuses the coverages or benefits in a form and

manner satisfactory to the board of trustees. (V.T.I.C. Art. 3.50-2, Sec. 14(g).)

Source Law

(g) If an employee or annuitant refuses the coverages or benefits provided under this Act in a form and manner satisfactory to the trustee, the state and the employee's department may not make any contribution to the cost of any coverages or benefits for the employee or annuitant.

Revised Law

Sec. 1551.309. EMPLOYEE PAYMENTS FOR PARTICIPATION IN CAFETERIA PLAN. (a) If an employee elects to participate in the cafeteria plan, the employee must execute a salary reduction agreement under which the employee's monthly compensation will be reduced in an amount equal to the difference between:

(1) the employer contributions for basic and optional coverages; and

(2) the cost of the cafeteria plan coverages the board of trustees identifies as comparable to the basic and optional coverages for which the employee is eligible.

(b) The salary reduction agreement must also provide for an additional reduction in the employee's compensation equal to the cost of voluntary coverages for which the employee has applied.

(c) An employee who executes a salary reduction agreement for a group coverage plan included in the cafeteria plan elects to participate in the cafeteria plan and agrees to a salary reduction for the coverages for subsequent plan years unless the employee, during an annual enrollment period specified by the board of trustees, elects in a form and manner satisfactory to the board not to participate for the next plan year in the coverages.

(d) An employee who elects not to participate in the cafeteria plan group coverage plans may reenroll by executing a new salary reduction agreement during a subsequent annual enrollment period.

(e) A salary reduction agreement for cafeteria plan benefits, other than a group coverage plan, must be executed annually during the annual enrollment period.

(f) The employee shall pay any remaining portion of the cost of benefits that is not covered by the contributions for basic and optional coverages and the salary reduction under the cafeteria plan by executing a payroll deduction agreement.

(V.T.I.C. Art. 3.50-2, Sec. 14(h).)

Source Law

(h) If an employee elects to participate in the cafeteria plan, the employee must execute a salary reduction agreement under which the employee's monthly compensation will be reduced in an amount that is equal to the difference between the employer contributions for basic and optional coverages and the cost of the cafeteria plan coverages identified by the trustee as comparable to the basic and optional coverages for which the employee is eligible. The salary reduction agreement must also provide for an additional reduction in the employee's compensation equal to the cost of voluntary coverages for which the employee has applied. An employee who executes a salary reduction agreement for insurance coverage included in the cafeteria plan has elected to participate in the cafeteria plan and agreed to a salary reduction for the insurance coverages for subsequent plan years unless the participant, during an annual enrollment period specified by the trustee, elects in a form and manner satisfactory to the trustee not to participate for the next plan year in the insurance coverages. An employee who has elected not to participate in the cafeteria plan insurance coverages may re-enroll by executing a new salary reduction agreement during a subsequent annual enrollment period. A salary reduction agreement for cafeteria plan benefits other than insurance coverages must be executed annually, during the annual enrollment period. The employee shall pay any remaining portion of the cost of benefits that is not covered by the contributions for basic and optional coverages and the salary reduction under the cafeteria plan by executing a payroll deduction agreement.

Revised Law

Sec. 1551.310. STATE CONTRIBUTION REQUIRED. The state shall contribute to the cost of each participant's group coverages, including dependents' group coverages, the amounts appropriated for the coverages in the General Appropriations Act. (V.T.I.C.

Art. 3.50-2, Sec. 15(b) (part).)

Source Law

(b) The state shall contribute to the cost of each employee's individual and dependent group coverages the amounts appropriated for the coverages in the General Appropriations Act. . . .

Revised Law

Sec. 1551.311. AMOUNT OF STATE CONTRIBUTION. (a) Not later than November 1 preceding each regular session of the legislature, the board of trustees shall certify to the Legislative Budget Board and the budget division of the governor's office for information and review the amount necessary to pay the contributions of the state to the board for the coverages provided under this chapter during the following biennium.

(b) The governor shall include the amount in the budget that the governor submits to the legislature. (V.T.I.C. Art. 3.50-2, Sec. 15(a) (part).)

Source Law

Sec. 15. (a) On or before the first day of November next preceding each regular session of the legislature, the trustee shall certify to the Legislative Budget Board and budget division of the governor's office for information and review the amount necessary to pay the contributions of the State of Texas to the trustee for the coverages provided under this Act during the ensuing biennium. . . . This amount shall be included in the budget of the state which the governor submits to the legislature.

Revised Law

Sec. 1551.312. AMOUNT OF STATE CONTRIBUTION FOR CERTAIN DEPENDENT CHILDREN. The state may contribute a greater amount for coverage for dependent children described by Section 1551.159(a) than the amount the state contributes for group coverages for other dependent children. (V.T.I.C. Art. 3.50-2, Sec. 15(b) (part).)

Source Law

(b) . . . The state may contribute a greater amount for coverage for dependent children described by Section 14A(a) of this

Act than the state contributes for group coverages for other dependent children. . . .

Revised Law

Sec. 1551.313. AMOUNT OF STATE CONTRIBUTION FOR CERTAIN SURVIVING DEPENDENTS. If funds are specifically appropriated for the purpose, this state shall pay the same portion of the cost of the required contributions for a deceased annuitant's surviving spouse or other surviving dependent who elects to retain coverage under Section 1551.156 as this state pays for similar dependent coverage for an employee or annuitant participating in the program. (V.T.I.C. Art. 3.50-2, Sec. 19(b) (part).)

Source Law

(b) . . . If funds are specifically appropriated for the purpose, the state shall pay the same portion of the cost of the required contributions for a deceased retiree's surviving spouse or other surviving dependent who elects to retain coverage under this subsection as it pays for similar dependent coverage for an employee or retiree participating in the program.

Revised Law

Sec. 1551.314. CERTAIN STATE CONTRIBUTIONS PROHIBITED. A state contribution may not be made for coverages under this chapter selected by an individual who receives a state contribution, other than as a spouse, dependent, or beneficiary, for coverages under a group benefits program provided by an institution of higher education, as defined by Section 61.003, Education Code. (V.T.I.C. Art. 3.50-2, Sec. 15(a) (part).)

Source Law

(a) . . . A state contribution may not be made for coverages under this Act selected by a person who receives a state contribution, other than as a spouse, dependent, or beneficiary, for coverages under a group benefits program provided by an institution of higher education, as that term is defined by Section 61.003, Education Code. . . .

Revised Law

Sec. 1551.315. REQUIRED CONTRIBUTIONS BY STATE AGENCIES.
(a) The governing board of each state agency participating in the group benefits program shall pay to the board of trustees an

amount equal to the amount appropriated by the legislature for each employee's individual group coverages or dependents' group coverages for the agency's employees who are, and annuitants who were, compensated from funds not appropriated in the General Appropriations Act.

(b) The state agency shall:

(1) include the required contributions from funds not appropriated in the General Appropriations Act in its annual operating budget;

(2) ensure current participant coverages based on the records of the board of trustees;

(3) make timely payments of amounts due the board of trustees from all fund sources under the state agency's control; and

(4) each month reconcile board of trustees and state agency records of coverages and payments. (V.T.I.C. Art. 3.50-2, Sec. 15(b) (part).)

Source Law

(b) . . . The governing board of each state department and institution of higher education participating in the program established under this Act shall pay the trustee a like amount for each employee's individual or dependent group coverages for their employees who are, and retirees who were, compensated from funds not appropriated in the General Appropriations Act. The departments and institutions shall include the required contributions from funds not appropriated in the General Appropriations Act in their annual operating budgets. Each state department and institution of higher education participating in the program shall assure current participant coverages based on the records of the trustee, make timely payments of amounts due the trustee from all fund sources under the control of the department or institution, and reconcile trustee and agency records of coverages and payments monthly. . . .

Revised Law

Sec. 1551.316. ALLOCATION TO BOARD OF TRUSTEES OF EMPLOYER CONTRIBUTIONS. From the several funds from which employees receive their respective salaries, all employer contributions computed in accordance with this chapter and rules adopted under this chapter are allocated to the board of trustees as provided

by this chapter. (V.T.I.C. Art. 3.50-2, Sec. 15(b) (part).)

Source Law

(b) . . . There is hereby allocated to the trustee, in accordance with the provisions of this Act, from the several funds from which employees receive their respective salaries, a sum equal to the total of all employer contributions computed in accordance with the provisions of this Act and the rules and regulations of the trustee promulgated pursuant thereto.

Revised Law

Sec. 1551.317. PAYMENT OF EMPLOYER CONTRIBUTIONS ALLOCATED BY THE STATE. (a) All money allocated by this state, including by institutions of higher education, to the board of trustees under this chapter shall be paid to the board in monthly installments based on the annual estimate by the board of the contributions to be received for all employees during the year.

(b) At the end of each fiscal year, the board of trustees shall make any adjustments required to cover the difference between:

- (1) the annual estimate; and
- (2) the actual amount of the employer contributions during the year.

(c) Each monthly installment shall be paid to the appropriate fund created by this chapter in the amount certified by the board of trustees. (V.T.I.C. Art. 3.50-2, Sec. 15(c).)

Source Law

(c) All money hereby allocated by the state, including institutions of higher education, to the trustee under this Act shall be paid to the trustee in monthly installments based on the annual estimate by the trustee of the contributions to be received for all employees during said year; provided, however, that in the event said estimate of the contributions of the employees shall vary from the actual amount of the employer contributions during the year, such adjustments shall be made at the close of each fiscal year as may be required. Each of said monthly installments shall be paid into the appropriate fund created by this Act in the amount certified by the trustee.

Revised Law

Sec. 1551.318. PAYMENT OF EMPLOYER CONTRIBUTIONS NOT ALLOCATED BY THE STATE. (a) The board of trustees shall certify to the governing board of each state agency participating in the group benefits program that provides contributions for its employees' group coverages and dependents' group coverages from operating budgets provided from sources other than the General Appropriations Act the proportionate amounts required to pay its contributions.

(b) The board of trustees shall make the certification not later than the 30th day before the date of the meeting at which the governing board of the state agency adopts its operating budget. (V.T.I.C. Art. 3.50-2, Sec. 15(d).)

Source Law

(d) The trustee shall certify to the governing boards of those state departments and institutions of higher education participating in the program established under this Act who provide contributions for their employees' individual and dependent coverages from operating budgets provided from sources other than the General Appropriations Act the proportionate amounts required to pay their respective contributions. Such certifications shall be made at least 30 days prior to the meeting at which the governing board adopts its operating budget.

Revised Law

Sec. 1551.319. AMOUNT OF CONTRIBUTION FOR FULL-TIME AND PART-TIME EMPLOYEES. (a) A full-time employee receives the benefits of a full state contribution for coverage under this chapter.

(b) A part-time employee receives the benefits of one-half of the amount of the state contribution received by a full-time employee. (V.T.I.C. Art. 3.50-2, Secs. 3(a)(14) (part), (15) (part).)

Source Law

(14) . . . A part-time employee shall receive the benefits of one-half the amount of the state's contribution received by full-time employees.

(15) . . . A full-time employee shall receive the benefits of a full state contribution for coverage under this Act.

Revised Law

Sec. 1551.320. CERTAIN COSTS. The Texas Higher Education Coordinating Board shall pay all costs incurred in determining whether an individual is disabled if:

(1) the individual is an annuitant under the optional retirement program established by Chapter 830, Government Code; and

(2) the individual's last state employment was as an officer or employee of the coordinating board. (V.T.I.C. Art. 3.50-2, Sec. 4A (part).)

Source Law

Sec. 4A. . . . All costs incurred in determining whether or not a person is disabled who is an annuitant under the optional retirement program established by Subchapter G, Chapter 51, Texas Education Code, as amended, and whose last state employment was as an officer or employee of the Coordinating Board, Texas College and University System, shall be paid by that board.

Revisor's Note

(1) Section 4A, V.T.I.C. Article 3.50-2, refers to the "Coordinating Board, Texas College and University System." In 1987, the name of the agency was changed by Section 1.08, Chapter 823, Acts of the 70th Legislature, Regular Session, to "Texas Higher Education Coordinating Board." The revised law is drafted accordingly.

(2) Section 4A, V.T.I.C. Article 3.50-2, refers to the optional retirement program established by "Subchapter G, Chapter 51, Texas Education Code, as amended." That statute was repealed and recodified in 1981 as Chapter 830, Government Code. The revised law is drafted accordingly. In addition, the revised law omits the reference to "as amended" because Section 312.008, Government Code, which applies to this code, provides that a reference to any statute applies to all amendments of the statute.

[Sections 1551.321-1551.350 reserved for expansion]

SUBCHAPTER H. EXPULSION AND ADJUDICATION OF CLAIMS

Revised Law

Sec. 1551.351. EXPULSION. (a) After notice and hearing as provided by this section, the board of trustees may expel from participation in the group benefits program a participant who:

- (1) submits a fraudulent claim or application for coverage under the program; or
- (2) defrauds or attempts to defraud a group coverage plan offered under the group benefits program.

(b) On receipt of a complaint or on its own motion, the board of trustees may call and hold a hearing to determine whether a participant acted in a manner described by Subsection (a).

(c) A proceeding under this section is a contested case under Chapter 2001, Government Code.

(d) At the conclusion of the hearing, if the board of trustees determines that the participant acted in a manner described by Subsection (a), the board shall expel the participant from participation in the group benefits program.

(e) A participant expelled from the group benefits program may not participate in a coverage plan offered by the program for a period determined by the board of trustees, not to exceed five years, beginning on the date the expulsion takes effect.

(f) An appeal of a determination by the board of trustees under this section is under the substantial evidence rule.

(V.T.I.C. Art. 3.50-2, Sec. 13A.)

Source Law

Sec. 13A. (a) After notice and hearing as provided by this section, the trustee may expel from participation in the Texas employees uniform group insurance program any employee, annuitant, or dependent who submits a fraudulent claim or application for coverage under or has defrauded or attempted to defraud any health maintenance organization or insurance or benefits plan offered under the program.

(b) On receipt of a complaint or on its own motion, the trustee may call and hold a hearing to determine whether an employee, annuitant, or dependent has submitted a fraudulent claim or application for coverage under or has defrauded or attempted to defraud any health maintenance organization or insurance or benefits plan offered under the Texas employees uniform group insurance program.

(c) A proceeding under this section is a contested case under the administrative procedure law, Chapter 2001, Government Code.

(d) At the conclusion of the hearing, if the trustee issues a decision that finds that the accused employee, annuitant, or dependent submitted a fraudulent claim or application for coverage or has defrauded or attempted to defraud any health maintenance organization or insurance or benefits plan offered under the Texas employees uniform group insurance program, the trustee shall expel the employee, annuitant, or dependent from participation in the program.

(e) An appeal of a decision of the trustee under this section is under the substantial evidence rule.

(f) An employee, annuitant, or dependent expelled from the Texas employees uniform group insurance program may not participate in any plan of coverage offered by the program for a period determined by the trustee of not more than five years from the date the expulsion from the program takes effect.

Revisor's Note

Section 13A(a), V.T.I.C. Article 3.50-2, provides a process for expulsion from participation in the group benefits program for a participant who engages in certain fraudulent acts in relation to "any health maintenance organization or insurance or benefits plan offered under the program." It is the clear intent of the source law that the expulsion process apply to a participant who engages in certain fraudulent acts in relation to all of the plans offered under the group benefits program and group coverage plan, and the revised law is drafted accordingly.

Revised Law

Sec. 1551.352. EXECUTIVE DIRECTOR DETERMINES QUESTIONS RELATING TO ENROLLMENT OR PAYMENT OF CLAIMS. The executive director has exclusive authority to determine all questions relating to enrollment in or payment of a claim arising from group coverages or benefits provided under this chapter other than questions relating to payment of a claim by a health

maintenance organization. (V.T.I.C. Art. 3.50-2, Sec. 4B(a).)

Source Law

Sec. 4B. (a) The executive director of the Employees Retirement System of Texas has exclusive authority to determine all questions relating to enrollment in or payment of claims arising from programs or coverages provided under authority of this Act, other than questions relating to payment of claims by a health maintenance organization.

Revised Law

Sec. 1551.353. RESCISSION OF COVERAGE OR DENIAL OF CLAIM BY EXECUTIVE DIRECTOR. (a) The executive director may rescind coverage, deny a claim arising from the coverage, or both, if the executive director determines that a participant has:

(1) obtained the coverage under any group coverage plan provided under this chapter through the use of a material misrepresentation or fraud; or

(2) fraudulently induced the extension of the coverage by making a material misrepresentation or supplying false information on an application for coverage or related documentation or in a communication.

(b) The executive director may rescind the coverage to the date of:

(1) the inception of the coverage; or

(2) the fraudulent act or material misrepresentation.

(c) The authority of the executive director to act under this section is in addition to and independent of any expulsion action under Section 1551.351. (V.T.I.C. Art. 3.50-2, Sec. 4B(a-1) (part).)

Source Law

(a-1) If the executive director determines that a participant has obtained coverage under any program provided under the authority of this Act through the use of any material misrepresentation or fraud or has fraudulently induced the extension of coverage by making a material misrepresentation or by supplying false information on any application for coverage or related documentation or in any communication, the executive director may rescind the coverage to the date of the inception of the coverage or to the date of

the fraudulent act or material misrepresentation, deny any claim arising out of the fraudulently induced coverage, or both. Remedies available to the executive director under this subsection are in addition to and independent of any expulsion action that may be instituted under Section 13A of this Act. . . .

Revised Law

Sec. 1551.354. DOUBLE OR MULTIPLE LIABILITY. (a) The executive director may determine that a claim arising under any group coverage plan administered by the board of trustees may expose the plan to double or multiple liability.

(b) The executive director may cause the filing of a suit concerning the claim in a district court in Travis County on behalf of the Employees Retirement System of Texas to protect the group coverage plan from double or multiple liability. (V.T.I.C. Art. 3.50-2, Sec. 4B(b).)

Source Law

(b) The authority of the executive director to determine questions includes the authority to determine that a claim arising under any program administered by the trustee may expose the program to double or multiple liability. The executive director may cause suit concerning the claim to be filed in a district court in Travis County on behalf of the Employees Retirement System of Texas to protect the program from double or multiple liability.

Revised Law

Sec. 1551.355. APPEAL OF EXECUTIVE DIRECTOR'S DETERMINATION. (a) Subject to Subsection (b), an appeal of a determination of the executive director under this subchapter is only to the board of trustees.

(b) On behalf of the board of trustees, the executive director may:

(1) refer an appeal to the State Office of Administrative Hearings for a hearing; or

(2) notwithstanding any other law, including Section 2003.021, Government Code, employ or contract for the services of an administrative law judge or other hearing examiner not affiliated with the State Office of Administrative Hearings to conduct the hearing of an appeal.

(c) The appeal is a contested case under Chapter 2001,

Government Code. (V.T.I.C. Art. 3.50-2, Secs. 4B(a-1) (part), (c) (part), (c-3).)

Source Law

(a-1) . . . A decision of the executive director under this subsection may be appealed to the trustee as provided by Subsection (c) of this section.

(c) A decision by the executive director under Subsection (a) or (a-1) of this section may be appealed only to the trustee. An appeal to the trustee is a contested case under the administrative procedure law, Chapter 2001, Government Code. . . .

(c-3) On behalf of the trustee, the executive director may refer an appeal made under Subsection (c) of this section to the State Office of Administrative Hearings for a hearing or, notwithstanding Section 2003.021, Government Code, or other law, employ or contract for the services of an administrative law judge or hearing examiner not affiliated with the State Office of Administrative Hearings to conduct the hearing.

Revised Law

Sec. 1551.356. STANDING. A person has standing to appeal a determination of the executive director under this subchapter only if the person is:

(1) an individual participating in the group benefits program; or

(2) after the death of a participant, the participant's estate, personal representative, heir at law, or designated beneficiary. (V.T.I.C. Art. 3.50-2, Sec. 4B(c) (part).)

Source Law

(c) . . . Standing to pursue an administrative appeal under this section is limited to employees, annuitants, and covered dependents participating in the Texas employees uniform group insurance program or, after the death of a participant, to the participant's estate, personal

representative, heirs at law, or designated beneficiary.

Revised Law

Sec. 1551.357. DETERMINATION OF APPEAL BY BOARD OF TRUSTEES. (a) In a proceeding considered to be a contested case under Chapter 2001, Government Code, the board of trustees may modify or delete a proposed finding of fact or conclusion of law contained in a proposal for decision submitted by an administrative law judge or other hearing examiner, or make alternative findings of fact and conclusions of law.

(b) The board of trustees shall state in writing the specific reason for the board's determination.

(c) The board of trustees may adopt rules to implement this section. (V.T.I.C. Art. 3.50-2, Sec. 4B(c-1).)

Source Law

(c-1) The board of trustees may modify or delete a proposed finding of fact or conclusion of law contained in a proposal for decision submitted by an administrative law judge or other hearing examiner, or make alternative findings of fact and conclusions of law, in a proceeding considered to be a contested case under Chapter 2001, Government Code. The board of trustees shall state in writing the specific reason for the determination and may adopt rules for the implementation of this subsection.

Revised Law

Sec. 1551.358. NEGOTIATION. (a) Notwithstanding any other provision of this subchapter, the board of trustees and a person who has standing to pursue an administrative appeal under this subchapter may at any time informally negotiate an award of benefits.

(b) Negotiated benefits may not exceed the maximum benefits otherwise available or required by law. (V.T.I.C. Art. 3.50-2, Sec. 4B(c-2).)

Source Law

(c-2) Notwithstanding Subsections (c) and (d) of this section, the trustee and a person who has standing to pursue an administrative appeal may at any time informally negotiate an award of benefits. Negotiated benefits may not exceed the maximum benefits otherwise available or

required by law.

Revised Law

Sec. 1551.359. STANDARD OF REVIEW OF DETERMINATION OF BOARD OF TRUSTEES. The standard of review for the appeal of a determination made by the board of trustees under this subchapter is by substantial evidence. (V.T.I.C. Art. 3.50-2, Sec. 4B(d).)

Source Law

(d) On appeal of a decision made by the trustee under Subsection (c) of this section, the standard of review is by substantial evidence.

Revised Law

Sec. 1551.360. DELEGATION. (a) The board of trustees may delegate its duty to hear an appeal to the executive director.

(b) The executive director may delegate the director's duty under this subchapter to another employee of the Employees Retirement System of Texas. (V.T.I.C. Art. 3.50-2, Secs. 4B(e), (f).)

Source Law

(e) The trustee may delegate its duties to hear appeals to the executive director.

(f) The executive director may delegate the duties of the executive director under this section to another person who is employed by the Employees Retirement System of Texas.

[Sections 1551.361-1551.400 reserved for expansion]

SUBCHAPTER I. FUNDS

Revised Law

Sec. 1551.401. EMPLOYEES LIFE, ACCIDENT, AND HEALTH INSURANCE AND BENEFITS FUND. (a) The employees life, accident, and health insurance and benefits fund is in the state treasury.

(b) The board of trustees shall administer the fund.

(c) Contributions of participants and the state provided for under this chapter shall be credited to the fund.

(d) The fund is available:

(1) without fiscal year limitation for all payments for any coverages provided for under this chapter; and

(2) for payment of expenses of administering this chapter within the limitations that may be specified annually by the legislature.

(e) The board of trustees shall regularly set aside in the

fund an amount equal to a percentage of the contributions made by participants and the state that the board determines is reasonably adequate to pay the expenses of administering this chapter.

(f) The board of trustees, from time to time and in amounts it considers appropriate, may transfer unused funds for administrative expenses to the contingency reserves to be used by the board only for charges, claims, and expenses under the group benefits program. (V.T.I.C. Art. 3.50-2, Secs. 16(a), (b).)

Source Law

Sec. 16. (a) There is hereby created with the treasury of the State of Texas an Employees Life, Accident, and Health Insurance and Benefits Fund which shall be administered by the trustee. The contributions of employees, annuitants, and the state provided for under this Act shall be paid into the fund. The fund is available:

(1) without fiscal year limitation for all payments for any coverages provided for under this Act; and

(2) to pay expenses for administering this Act within the limitations that may be specified annually by the legislature.

(b) Portions of the contributions made by employees, annuitants, and the state shall be regularly set aside in the fund as follows: a percentage determined by the trustee to be reasonably adequate to pay the administrative expenses made available by Subsection (a) of this section. The trustee, from time to time and in amounts it considers appropriate, may transfer unused funds for administrative expenses to the contingency reserves to be used by the trustee only for charges, claims, costs, and expenses under the program.

Revised Law

Sec. 1551.402. STATE EMPLOYEES CAFETERIA PLAN TRUST FUND.

(a) The state employees cafeteria plan trust fund is in the state treasury.

(b) The board of trustees shall administer the fund.

(c) The following shall be credited to the fund:

(1) salary reduction payments for benefits included in a cafeteria plan other than group coverage plans under the group

benefits program; and

(2) appropriations by the state for the administration of a cafeteria plan.

(d) The trust fund is available without fiscal year limitation:

(1) for all payments for any benefits included in a cafeteria plan other than group coverage plans under the group benefits program; and

(2) for payment of expenses of administering a cafeteria plan.

(e) The board of trustees may establish accounts for money in the fund as the board considers necessary, including accounts for the administration of a cafeteria plan. The board of trustees may transfer assets from one account to another:

(1) to pay benefits if:

(A) the transfer is necessary for financial management purposes; and

(B) adequate arrangements are made to reimburse the account from which the transfer was made; and

(2) to pay administrative expenses. (V.T.I.C. Art. 3.50-2, Secs. 16B(a), (c).)

Source Law

Sec. 16B. (a) The State Employees Cafeteria Plan Trust Fund is created in the State Treasury. The trust shall be administered by the trustee. Salary reduction payments for benefits included in a cafeteria plan adopted under this Act other than coverages under the Texas Employees Uniform Group Insurance Program and appropriations by the state for the administration of a cafeteria plan adopted under this Act shall be paid into the trust fund. The trust fund is available without fiscal year limitation:

(1) for all payments for any benefits included in a cafeteria plan adopted under this Act other than coverages under the Texas Employees Uniform Group Insurance Program; and

(2) to pay expenses for administering the cafeteria plan adopted under this Act.

(c) The trustee may establish the accounts for money in the State Employees Cafeteria Plan Trust Fund as the trustee

considers necessary, including any accounts the trustee considers necessary for the administration of a cafeteria plan adopted under this Act. The trustee may transfer assets from one account to another to pay benefits if the transfer is necessary for financial management purposes and if adequate arrangements are made to reimburse the account out of which the transfer was made, and to pay administrative expenses.

Revised Law

Sec. 1551.403. FEES FOR STATE EMPLOYEES CAFETERIA PLAN TRUST FUND. (a) Subject to Subsection (e), the board of trustees may establish a monthly fee to be paid by each employee who elects to participate in a cafeteria plan for the purpose of paying the expenses of administering the cafeteria plan.

(b) The board of trustees shall establish the amount of the monthly fee and may establish a separate fee for each benefit included in a cafeteria plan.

(c) If the board of trustees establishes a monthly fee, each employee who participates in the cafeteria plan must authorize payment of the fee by executing a separate payroll deduction agreement or as part of the salary reduction agreement, as determined by the board.

(d) The monthly fee shall be paid into the state employees cafeteria plan trust fund.

(e) The board of trustees may not establish a fee for administering the premium conversion benefit portion of a cafeteria plan. (V.T.I.C. Art. 3.50-2, Secs. 13B(d) (part), 16B(b).)

Source Law

[Sec. 13B]

(d) . . . Notwithstanding any provision of Section 16B of this Act to the contrary, the trustee may not establish a fee or charge for administering the premium conversion benefit portion of the cafeteria plan.

[Sec. 16B]

(b) The trustee may establish a monthly charge or charges to be paid by each employee who elects to participate in a cafeteria plan adopted under this Act for the purpose of paying the expenses of administering the cafeteria plan. The trustee shall establish

the amount of the monthly charge or charges and may establish a separate charge for each benefit included in a cafeteria plan adopted under this Act. If the trustee establishes a monthly charge or charges, each employee who participates in the cafeteria plan shall authorize payment of the charge or charges by executing a payroll deduction agreement or as part of the salary reduction agreement, as determined by the trustee. The monthly charge or charges shall be paid into the State Employees Cafeteria Plan Trust Fund.

Revisor's Note

Section 13B(d), V.T.I.C. Article 3.50-2, refers to a "fee or charge." The reference to "charge" is omitted from the revised law because "charge" is included within the meaning of "fee."

Revised Law

Sec. 1551.404. INSUFFICIENT EARNINGS FOR EMPLOYEE TO PARTICIPATE IN CAFETERIA FUND. (a) If the earnings of an employee who elects to participate in a cafeteria plan are insufficient to pay the cost of the coverages and benefits selected by the employee, the employee is liable to the board of trustees for an amount equal to the difference between:

- (1) the amount received by the board; and
- (2) the cost of the coverages and benefits.

(b) If the employee does not pay the difference within the time specified by the board of trustees, the board may:

- (1) cancel the coverages and benefits retroactive to the last month for which full payment was made; or
- (2) pursue any other available legal remedy. (V.T.I.C. Art. 3.50-2, Sec. 16B(d).)

Source Law

(d) If the earnings of an employee who elects to participate in a cafeteria plan adopted under this Act are insufficient to pay the cost of the coverages and benefits selected by the employee, the employee shall be liable to the trustee for the difference between the amount received by the trustee and the cost of the coverages and benefits selected. If the employee fails to pay the difference within the time specified by the trustee, the trustee may cancel the coverages and benefits retroactive to the last month

for which full payment was made or may pursue other legal remedies available to it.

Revised Law

Sec. 1551.405. EMPLOYEES' HEALTH CARE STABILIZATION TRUST FUND. (a) The employees' health care stabilization trust fund is a fund in the state treasury.

(b) The board of trustees shall administer the fund.

(c) The following shall be credited to the fund:

(1) money transferred to the fund at the direction of the legislature; and

(2) gifts and grants contributed to the fund.

(d) In administering the fund, the board of trustees shall make investments in a manner that preserves the purchasing power of the fund's assets.

(e) Money in the fund may not be spent for any purpose, except that the interest and investment returns of the fund may be appropriated only to stabilize the cost of state and participant contributions for health benefit coverage under this chapter by minimizing to the greatest extent possible increases in those contributions.

(f) The fund is exempt from the application of Section 403.095, Government Code. (V.T.I.C. Art. 3.50-2, Secs. 16C(a), (b) (part), (c) (part), (d), (e).)

Source Law

Sec. 16C. (a) The employees' health care stabilization trust fund is a special fund in the treasury outside the general revenue fund.

(b) The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) gifts and grants contributed to the fund; and

. . .

(c) The trustee shall administer the fund. . . . In administering the fund, the trustee shall make investments in a manner that preserves the purchasing power of the fund's assets.

(d) Money in the fund may not be spent for any purpose, except that the interest and investment returns of the fund may be appropriated only for the purpose of stabilizing the cost of state and participant contributions for health care coverage under this Act by minimizing to the greatest extent

possible increases in those contributions.

(e) The fund is exempt from the application of Section 403.095, Government Code.

Revisor's Note

(1) Section 16C, V.T.I.C. Article 3.50-2, which establishes the employees' health care stabilization trust fund, was enacted by Senate Bill 1130, Chapter 1541, Acts of the 76th Legislature, Regular Session, 1999. The final action by the legislature in enacting Senate Bill 1130 took place on May 29, 1999. House Bill 3084, Chapter 1045, Acts of the 76th Legislature, Regular Session, 1999, attempted to abolish the trust fund. The final action by the legislature in enacting House Bill 3084 took place on May 26, 1999. Section 311.025, Government Code (Code Construction Act), provides that "if statutes enacted at the same or different sessions of the legislature are irreconcilable, the statute latest in date of enactment prevails" and that "the date of enactment is the date on which the last legislative vote is taken on the bill enacting the statute." Section 312.014, Government Code, contains identical provisions. The bill establishing the fund irreconcilably conflicts with the bill abolishing it. Because the bill establishing the fund was finally passed by the legislature after the date on which the bill abolishing the fund was finally passed, the revised law gives effect to the establishment of the fund.

(2) Section 16C(a), V.T.I.C. Article 3.50-2, refers to the employees' health care stabilization trust fund as a "special" fund. The revised law deletes the designation of the fund as being "special" because that designation is unnecessary. The designation of a fund as a "special" fund has no legal effect.

(3) Section 16C(a), V.T.I.C. Article 3.50-2, refers to "a special fund in the treasury outside the general revenue fund." The revised law omits the reference to

"outside the general revenue fund" as unnecessary because the creation of a separate fund in the treasury means the fund is outside the general revenue fund.

Revised Law

Sec. 1551.406. INVESTMENT OF FUNDS. (a) Under the standard of care provided by Section 815.307, Government Code, the board of trustees may manage and has full power to invest and reinvest the money in:

(1) the employees life, accident, and health insurance and benefits fund;

(2) the state employees cafeteria plan trust fund; and

(3) the employees' health care stabilization trust fund.

(b) The earnings, including interest on money in the fund and proceeds from the sale of any investments, become a part of the fund. (V.T.I.C. Art. 3.50-2, Secs. 16(c), 16B(e), 16C(b) (part), (c) (part).)

Source Law

[Sec. 16]

(c) The trustee shall have full power to invest and reinvest any of the money in the fund under the standard of care provided by Section 815.307, Government Code. The interest on and the proceeds from the sale of these obligations become a part of the fund.

[Sec. 16B]

(e) The trustee may, under the standard of care provided by Section 815.307, Government Code, invest and reinvest any of the money in the State Employees Cafeteria Plan Trust Fund. The interest on, earnings of, and the proceeds from the sale of the investments become a part of the trust fund.

[Sec. 16C]

(b) The [employees' health care stabilization trust] fund is composed of:

. . .

(3) the returns received as interest on, and from investment of, money in the fund.

(c) . . . The trustee may manage and invest the money in the fund under the standard of care provided by Section 815.307, Government Code. . . .

Revisor's Note

Section 16(c), V.T.I.C. Article 3.50-2, refers to the power to invest money in the fund and to the "interest on and proceeds from the sale of these obligations." It is clear from the context of that section that "these obligations" refers to investments of the fund. The revised law is drafted accordingly.

Revised Law

Sec. 1551.407. MANAGEMENT OF ASSETS. The board of trustees may commingle for investment purposes the assets of a fund created under this chapter with another fund created under this chapter or any other trust fund administered by the board if the board maintains and credits proportionate ownership records. (V.T.I.C. Art. 3.50-2, Sec. 16A.)

Source Law

Sec. 16A. The trustee may commingle for investment purposes the assets of any fund created under this Act with any other fund created under this Act or any other trust fund administered by the trustee, as long as proportionate ownership records are maintained and credited.

[Sections 1551.408-1551.450 reserved for expansion]

SUBCHAPTER J. GROUP BENEFITS ADVISORY COMMITTEE

Revised Law

Sec. 1551.451. DEFINITION. In this subchapter, "committee" means the group benefits advisory committee. (New.)

Revisor's Note

The definition of "committee" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.

Revised Law

Sec. 1551.452. NUMBER OF MEMBERS. The committee is composed of 26 voting members as provided by this subchapter. (V.T.I.C. Art. 3.50-2, Sec. 18(a) (part).)

Source Law

Sec. 18. (a) The group benefits advisory committee is composed of 26 voting members as provided by this section. . . .

Revised Law

Sec. 1551.453. MEMBERS REPRESENTING STATE AGENCIES. (a) The following state agencies are entitled to be represented by one member each on the committee:

- (1) the office of the attorney general;
- (2) the office of the comptroller;
- (3) the Railroad Commission of Texas;
- (4) the General Land Office; and
- (5) the Department of Agriculture.

(b) A committee member described by Subsection (a) may, as determined by rule by the governing body or officer of the state agency the member represents, be:

- (1) appointed by the governing body or officer of the agency; or
- (2) elected by and from the employees of the agency.

(c) The eight largest state agencies that are governed by appointed officers, not including the agencies listed under Subsection (a) or institutions of higher education, are entitled to be represented by one member each on the committee.

(d) A committee member described by Subsection (c) is elected by and from the employees of the state agency the member represents.

(e) The board of trustees shall appoint one committee member who is an employee of a state agency eligible for membership in the Texas Small State Agency Task Force.

(f) Not more than one employee from a particular state agency may serve on the committee. (V.T.I.C. Art. 3.50-2, Sec. 18(a) (part).)

Source Law

(a) . . . The office of the attorney general, the office of the comptroller, the Railroad Commission of Texas, the General Land Office, and the Department of Agriculture are entitled to be represented by one member each on the committee, who may be appointed by the governing body of the state agency or elected by and from the employees of the agency, as determined by rule by the governing body of the agency. One employee shall be elected from each of the remaining eight largest state agencies that are governed by appointed officers by and from the employees of those agencies. . . . One member shall be a state employee of a state agency eligible for membership in the Texas Small State Agency Task Force, appointed by the trustee. Not more than one employee from

a particular state agency may serve on the committee. . . .

Revisor's Note

(1) Section 18(a), V.T.I.C. Article 3.50-2, refers to the governing body of certain state agencies, including the office of the attorney general, the office of the comptroller, the General Land Office, and the Department of Agriculture. Since these state agencies do not have governing bodies, the revised law refers to the "governing body or officer" of the relevant state agencies.

(2) Section 18(a), V.T.I.C. Article 3.50-2, refers to "the remaining eight largest state agencies that are governed by appointed officers." The revised law clarifies that institutions of higher education are not included in this group of agencies because Section 1551.003 of this chapter defines the term "state agency" to include institutions of higher education. Representatives for institutions of higher education are governed by the portion of Section 18(a), V.T.I.C. Article 3.50-2, revised as Section 1551.454.

Revised Law

Sec. 1551.454. MEMBERS REPRESENTING INSTITUTIONS OF HIGHER EDUCATION. (a) The seven largest institutions of higher education, as determined by the number of employees on the payroll of an institution, are entitled to be represented by one member each on the committee.

(b) A committee member described by Subsection (a) must be elected from among individuals who have each been nominated by a petition signed by at least 300 employees.

(c) The Texas Higher Education Coordinating Board shall appoint two committee members who are employees of institutions of higher education, other than those institutions described by Subsection (a).

(d) Not more than one employee from an institution of higher education may serve on the committee. (V.T.I.C. Art. 3.50-2, Sec. 18(a) (part).)

Source Law

(a) . . . Each of the seven largest institutions of higher education, as determined by the number of employees on the payroll of an institution, shall elect one

member of the committee from among persons who have each been nominated by a petition signed by at least 300 employees. Two members shall be employees of institutions of higher education, other than the seven largest institutions of higher education, who are appointed by the Texas Higher Education Coordinating Board, but not more than one employee shall be from any one institution. . . .

Revised Law

Sec. 1551.455. MEMBERS REPRESENTING PRIVATE SECTOR. (a) The governor shall appoint to the committee one member from the private sector who is an expert in employee benefit issues.

(b) The lieutenant governor shall appoint to the committee one member from the private sector who is an expert in employee benefit issues. (V.T.I.C. Art. 3.50-2, Sec. 18(a) (part).)

Source Law

(a) . . . One member shall be an expert in employee benefit issues from the private sector, appointed by the governor. One member shall be an expert in employee benefits issues from the private sector, appointed by the lieutenant governor. . . .

Revised Law

Sec. 1551.456. RETIRED STATE EMPLOYEE. The board of trustees shall appoint to the committee one member who is a retired state employee. (V.T.I.C. Art. 3.50-2, Sec. 18(a) (part).)

Source Law

(a) . . . One member shall be a retired state employee appointed by the trustee. . . .

Revised Law

Sec. 1551.457. EXECUTIVE DIRECTOR. The executive director is a nonvoting member of the committee. (V.T.I.C. Art. 3.50-2, Sec. 18(a) (part).)

Source Law

(a) . . . One nonvoting member shall be the executive director of the Employees Retirement System of Texas. . . .

Revised Law

Sec. 1551.458. TERM. A member of the committee is appointed or elected for a three-year term. (V.T.I.C. Art. 3.50-2, Sec. 18(b) (part).)

Source Law

(b) All members of the committee shall be appointed or elected for three-year terms. . . .

Revised Law

Sec. 1551.459. VACANCY. (a) The governing body or officer of a state agency, including an institution of higher education, shall appoint to the committee an employee of the agency to fill the remainder of a vacated term of an employee from the agency.

(b) The officer who originally appointed a committee member from the private sector shall appoint an individual to fill the remainder of that committee member's vacated term. (V.T.I.C. Art. 3.50-2, Sec. 18(b) (part).)

Source Law

(b) . . . During a term of appointment or election, state employee vacancies shall be filled by an employee of the same agency from which the vacancy occurred appointed by the governing body of the agency or institution for the balance of the vacated term. A vacancy in a position held by a member of the private sector shall be filled by the officer who originally made the appointment to that position.

Revised Law

Sec. 1551.460. PRESIDING OFFICER. The members of the committee shall elect a presiding officer from the committee's membership to serve a one-year term. (V.T.I.C. Art. 3.50-2, Sec. 18(a) (part).)

Source Law

(a) . . . The members shall elect a presiding officer from their membership to serve a one-year term.

Revised Law

Sec. 1551.461. DUTIES OF COMMITTEE. The committee shall:

(1) advise and consult with the board of trustees on matters concerning all group coverages provided under this chapter;

(2) present recommendations to the board regarding other existing or proposed state employee benefits, other than retirement benefits; and

(3) cooperate and work with the board in coordinating and correlating the administration of the group benefits program among the various state agencies. (V.T.I.C. Art. 3.50-2, Sec. 18(c) (part).)

Source Law

(c) The group benefits advisory committee shall advise and consult with the trustee on matters concerning all insurance coverages provided under this Act and shall present recommendations to the trustee regarding other existing or proposed state employee benefits, other than retirement benefits. The committee shall cooperate and work with the trustee in coordinating and correlating the administration of the Employees Uniform Group Insurance Program among the various state departments and agencies. . . .

Revised Law

Sec. 1551.462. DUTIES OF COMMITTEE MEMBERS. (a) A committee member shall secure input from fellow employees.

(b) A member's service on the committee is in addition to the duties of the member's employment or state office.

(c) An expense incurred by a member in performing a duty as a member of the committee shall be paid from funds made available for that purpose to the state agency of which the member is an employee or officer. (V.T.I.C. Art. 3.50-2, Sec. 18(c) (part).)

Source Law

(c) . . . The duties of each member of the group benefits advisory committee shall be to secure input from fellow employees and shall be considered additional duties required of the member's other state office or employment and all expenses incurred by any such member in performing the member's duties as a member of the committee shall be paid from funds made available for those purposes to the agency or department of which the member is an employee or officer.

Revisor's Note
(End of Chapter)

(1) The revised law omits Section 11(e)(4), V.T.I.C. Article 3.50-2, because, by its own terms, it is expired. The omitted law reads:

(4) A participant who retired on or after December 31, 1995, but before September 1, 1997, and who elected at the time of retirement to continue the maximum optional term life insurance amount available to a retiree at the time, may reinstate, prospectively, the level of optional group term life insurance in force on the participant's life immediately before the participant's retirement, not to exceed the maximum coverage set for retirees in Subdivision (2) of this subsection. This subdivision expires December 31, 1997.

(2) The revised law omits Section 20, V.T.I.C. Article 3.50-2, relating to the effective date of the act, because that provision is executed. The omitted law reads:

Sec. 20. This Act shall become effective September 1, 1975, but no insurance coverages shall be provided hereunder until such time as the trustee shall have made a study of the coverages and benefits authorized by this Act and gathered the necessary statistical data and information to secure such group insurance and the Texas Legislature has appropriated the funds necessary to provide the insurance coverages and benefits provided for in this Act; provided, however, that subject only to the legislature's appropriating the necessary funds, group insurance coverages for state employees contemplated by this Act shall be provided beginning not later than September 1, 1976. Departments are specifically authorized to continue or initiate state employee insurance plans and policies with state financial participation until the date and time this Act is implemented; provided, however, that any experience rating refunds becoming

payable to such department under any such plans or policies on or after the date and time this Act is implemented shall be paid to the Employees Life, Accident, and Health Insurance and Benefits Fund, and such payment shall be deemed payment to such department.

(3) Section 21, V.T.I.C. Article 3.50-2, provides that the section headings in the article do not affect the meaning of any of the provisions of the article. The revised law omits this provision as unnecessary because Section 311.024, Government Code (Code Construction Act), applicable to the revised law, provides that "[t]he heading of a . . . section does not limit or expand the meaning of a statute." The omitted law reads:

Sec. 21. Section headings contained in this Act shall not be deemed to govern, limit, expand, modify, or in any manner affect the scope, meaning, or intent of the provisions of any section hereof.

(4) The revised law omits Section 22, V.T.I.C. Article 3.50-2, providing that the article is severable, because that provision duplicates Section 311.032, Government Code (Code Construction Act), applicable to the revised law, and Section 312.013, Government Code. Those provisions state that a provision of a statute is severable from each other provision of the statute that can be given effect. The omitted law reads:

Sec. 22. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act in all its particulars and as to all other persons and circumstances shall be valid and of full force and effect, and the legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision; and to this end the provisions of

this Act are declared to be severable.

(5) Section 23, V.T.I.C. Article 3.50-2, repeals all laws in conflict with that article. The revised law omits this provision as unnecessary because, under general rules of statutory construction, a statute automatically has the effect of repealing prior conflicting enactments. The provision is, of course, ineffective to repeal subsequent legislation. The omitted law reads:

Sec. 23. All laws or parts of laws in conflict with this Act are hereby repealed to the extent of such conflict only.

CHAPTER 1552. GROUP LONG-TERM CARE INSURANCE FOR
STATE EMPLOYEES

Sec. 1552.001. DEFINITIONS 1793
Sec. 1552.002. ESTABLISHMENT OF PROGRAM 1794
Sec. 1552.003. ADMINISTERING FIRM 1795
Sec. 1552.004. PREMIUMS 1796
Sec. 1552.005. PROGRAM NOT PART OF OTHER GROUP COVERAGES 1796
Sec. 1552.006. RULES 1796

CHAPTER 1552. GROUP LONG-TERM CARE INSURANCE FOR STATE
EMPLOYEES

Revised Law

Sec. 1552.001. DEFINITIONS. In this chapter, "annuitant," "board of trustees," and "employee" have the meanings assigned by Section 1551.003. (V.T.I.C. Art. 3.50-2A, Subsec. (a)(2).)

Source Law

Art. 3.50-2A

(a) In this article:

(2) "Employee" and "trustee" have the meanings assigned by Section 3, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code).

Revisor's Note

(1) Subsection (a)(2), V.T.I.C. Article 3.50-2A, provides that the definition of "employee" has the meaning assigned by Section 3, V.T.I.C. Article 3.50-2. That definition is referenced in Section 1551.003. Under Section 3, the term "employee" included

an "annuitant." Subsequent provisions of Article 3.50-2A refer to an employee, "including a retired employee." To continue the meaning of the revised law without change in the context of the revision, the revised law also includes a reference to the definition of "annuitant" from Section 3, V.T.I.C. Article 3.50-2, also referenced in Section 1551.003. Appropriate changes are made throughout this chapter.

(2) Subsection (a)(2), V.T.I.C. Article 3.50-2A, defines "trustee" for purposes of this chapter as having the meaning assigned that term by Section 3, V.T.I.C. Article 3.50-2, revised as Section 1551.003. Section 3 defines "trustee" as meaning "the Board of Trustees provided for in Chapter 815, Government Code, to administer the Employees Retirement System of Texas." For clarity and convenience, the revised law substitutes "board of trustees" for "trustee" as the defined term and substitutes the text of the definition instead of a cross-reference. The substitution of "board of trustees" for "trustee" is also made throughout this chapter to reflect the change made in this section.

Revised Law

Sec. 1552.002. ESTABLISHMENT OF PROGRAM. (a) The board of trustees may establish a group long-term care insurance program to provide long-term care insurance coverage for:

- (1) an individual eligible to participate in the program provided by Chapter 1551 as an employee or annuitant;
- (2) the spouse, parent, or grandparent of an employee or annuitant; and
- (3) a parent of a spouse described by Subdivision (2).

(b) The board of trustees may not implement a group long-term care insurance program unless any cost or administrative burden associated with the development of, implementation of, or communications about the program is incidental. (V.T.I.C. Art. 3.50-2A, Subsecs. (b), (d) (part).)

Source Law

(b) The trustee may establish a group long-term care insurance program to provide long-term care insurance coverage for:

- (1) an employee, including a retired employee;

(2) a spouse of an employee,
including a retired employee;

(3) a parent or grandparent of an
employee, including a retired employee; and

(4) the parent of a spouse of an
employee, including a retired employee.

(d) . . . The trustee may not implement
the group long-term care insurance program
under this section unless any cost or
administrative burden associated with the
development of, implementation of, or
communications about the program is
incidental.

Revisor's Note

Subsection (b), V.T.I.C. Article
3.50-2A, refers to "an employee, including a
retired employee." For consistency of
terminology, the revised law substitutes "an
individual eligible to participate in the
program provided by Chapter 1551 as an
employee or annuitant." See also Revisor's
Note (1) to Section 1552.001.

Revised Law

Sec. 1552.003. ADMINISTERING FIRM. The board of trustees
may select an administering firm to administer the group
long-term care insurance program under contract with the board.
(V.T.I.C. Art. 3.50-2A, Subsec. (c) (part).)

Source Law

(c) The trustee may select an
administering firm to administer the program
under contract to the trustee. . . .

Revised Law

Sec. 1552.004. PREMIUMS. (a) The administering firm shall
bill each program participant directly for premiums and any other
program costs. Each participant is responsible for required
payments.

(b) Premiums and program costs may not be deducted from a
program participant's monthly compensation or annuity. (V.T.I.C.
Art. 3.50-2A, Subsec. (c) (part).)

Source Law

(c) . . . The administering firm shall
bill each program participant directly for
premiums and any other program cost, and the

program participant is responsible for the required payment. The premiums and program cost may not be deducted from an employee's monthly compensation or a retired employee's annuity.

Revised Law

Sec. 1552.005. PROGRAM NOT PART OF OTHER GROUP COVERAGES.

(a) The group long-term care insurance program is not part of the group coverages offered under Chapter 1551.

(b) The state may not contribute any part of the premiums for coverage offered under this chapter. (V.T.I.C. Art. 3.50-2A, Subsec. (d) (part).)

Source Law

(d) The group long-term care insurance program is not part of the group coverages offered under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), and the state may not contribute any part of the premiums for coverage offered under this article. . . .

Revised Law

Sec. 1552.006. RULES. The board of trustees may adopt rules as necessary to implement this chapter, including rules specifying the coverage to be offered under the group long-term care insurance program. (V.T.I.C. Art. 3.50-2A, Subsec. (e).)

Source Law

(e) The trustee may adopt rules as necessary to implement this article, including rules specifying the coverage to be offered under the group long-term care insurance program.

Revisor's Note

(End of Chapter)

Subsection (a)(1), V.T.I.C. Article 3.50-2A, provides a definition of "administering firm." The revised law omits this definition as unnecessary because the substance of the definition is included in the operative terms of the statute. The omitted law reads:

[(a) In this article:]

(1) "Administering firm" means a firm designated by the trustee to administer the group long-term care insurance program under this article.

[Chapters 1553-1574 reserved for expansion]

CHAPTER 1575. TEXAS PUBLIC SCHOOL EMPLOYEES GROUP
BENEFITS PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1575.001. SHORT TITLE 1802
Sec. 1575.002. GENERAL DEFINITIONS 1802
Sec. 1575.003. DEFINITION OF DEPENDENT AND RELATED TERMS 1805
Sec. 1575.004. DEFINITION OF RETIREE 1808
Sec. 1575.005. ISSUANCE OF CERTIFICATE OF COVERAGE 1808
Sec. 1575.006. EXEMPTION FROM PROCESS 1810
Sec. 1575.007. EXEMPTION FROM STATE TAXES AND FEES 1810
Sec. 1575.008. APPLICABILITY OF OTHER LAW 1811

[Sections 1575.009-1575.050 reserved for expansion]

SUBCHAPTER B. ADMINISTRATION

Sec. 1575.051. ADMINISTRATION OF GROUP PROGRAM 1811
Sec. 1575.052. AUTHORITY TO ADOPT RULES AND PROCEDURES;
OTHER AUTHORITY 1812
Sec. 1575.053. PERSONNEL 1813
Sec. 1575.054. BUDGET 1813
Sec. 1575.055. DEPARTMENT ASSISTANCE 1814

[Sections 1575.056-1575.100 reserved for expansion]

SUBCHAPTER C. PROVISION OF BENEFITS

Sec. 1575.101. SYSTEM AS GROUP PLAN HOLDER 1814
Sec. 1575.102. SELF-INSURED PLANS 1815
Sec. 1575.103. PLANS MAY VARY ACCORDING TO MEDICARE
COVERAGE 1815
Sec. 1575.104. TERMS OF CONTRACT 1815
Sec. 1575.105. PLAN COVERAGE SECONDARY TO CERTAIN OTHER
COVERAGE 1816
Sec. 1575.106. COMPETITIVE BIDDING REQUIREMENTS; RULES 1816
Sec. 1575.107. CONTRACT AWARD; CONSIDERATIONS 1817
Sec. 1575.108. USE OF PRIVATE ENTITIES 1818
Sec. 1575.109. USE OF HEALTH CARE PROVIDER 1818

[Sections 1575.110-1575.150 reserved for expansion]

SUBCHAPTER D. COVERAGES AND PARTICIPATION

Sec. 1575.151. TYPES OF COVERAGES 1818
Sec. 1575.152. BASIC PLAN MUST COVER PREEXISTING
CONDITIONS 1820
Sec. 1575.153. AUTOMATIC BASIC COVERAGE 1820
Sec. 1575.154. ENROLLMENT IN BASIC PLAN BY RETIREES
REQUIRED 1820
Sec. 1575.155. COVERAGE FOR DEPENDENTS OF RETIREE 1821